

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SUNNY GARCIA AND RODEL CRISTOBAL, ACCUSED, SUNNY GARCIA, ACCUSED-APPELLANT.

G.R. No. 132915. August 06, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision[1] dated January 15, 1998 of the Regional Trial Court of Pasay City, Branch 114, in Criminal Case No. 96-8338, convicting accused-appellant Sunny Garcia and co-accused Rodel Cristobal of the crime of murder and sentencing them to suffer the penalty of reclusion perpetua, to indemnify the widow of the victim Edgardo Benitez in the amount of (1) P50,000 for the death of Benitez; (2) P40,000 for actual damages; (3) P500,000 for loss of earning capacity; and (4) to pay the costs.

This appeal concerns only Sunny Garcia, the alleged principal conspirator in the killing of the victim, Edgardo Benitez. His co-accused Rodel Cristobal was present during the arraignment but later on escaped from the hospital where he was confined for a gunshot wound.

In an information dated February 22, 1996, appellant and co-accused were indicted as follows:

That on or about the 31st day of December 1995, in Pasay, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, with evident premeditation, treachery, and taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and shot EDGARDO BENITEZ y ABANEL, with a gun on the latter's face and body which caused his instantaneous death.

Contrary to Law.[2]

When arraigned, appellant and co-accused entered separate pleas of not guilty. Subsequently, trial proceeded for both accused. However, since co-accused Rodel Cristobal had earlier escaped, his trial was held in absentia. Two other accused, John Doe @ "Tony Manok" and Peter Doe @ "Edward" remain unidentified and at-large.

The facts, based on the records, are as follows:

On December 31, 1995, around 11:15 P.M., prosecution witness LINDA MENDOZA BENITEZ was at her residence in Pasay City, together with her husband Edgardo Benitez, when four men arrived to talk to her husband. Three of them went inside the house led by Rodel Cristobal, live-in partner of Edgardo's sister, Eugene Benitez. The fourth member waited outside. Then she heard three explosions and thuds inside their house which she thought were only firecrackers because of the approaching New Year. As she went out of the room to verify, she saw her husband slumped and bleeding on the floor, and the three visitors rushing out of their house. She attended to her husband. She asked who shot him, and he replied, "Rodel, Rodel". She then rushed out of the house and shouted for help. A neighbor, Allan, assisted her in bringing her husband to the Manila Sanitarium Hospital where he was pronounced dead on arrival.

More than a month later or on February 21, 1996, Linda was summoned to the Pasay City Police Station where she was asked to identify a person arrested by the police who turned out to be Sunny Garcia, herein appellant. On July 18, 1996, she was informed by Barangay Captain Fernando Maalihan that another suspected killer of her husband was confined at the Pasay City General Hospital for a gunshot wound. Accompanied by Maalihan, she went to the hospital and identified Rodel Cristobal as the gunman mentioned by her dying husband. Linda and Maalihan reported to the police Cristobal's presence in the hospital and the latter was immediately arrested.

Linda testified that upon the death of her husband, she suffered physical and moral shock. She had a nervous breakdown as she did not know how she alone could bring up her child. For the wake and burial of her husband, she spent P40,000. She said that at the time of his death, her husband was gainfully employed as floor manager of the High Pitch Club earning as much as P15,000 a month, excluding tips estimated at P5,000.

DR. NOEL MINAY, medico-legal officer of the National Bureau of Investigation, testified that on January 1, 1996, he conducted a post-mortem examination of the cadaver of Edgardo Benitez. In his autopsy report, he indicated three gunshot wounds, the first and second of which were the most fatal, causing the victim's instantaneous death.

PO2 REYNALDO SUBOSA, assigned to the Investigation Division and Homicide Section of the Pasay City Police Station, testified that on January 1, 1996 around 12:30 A.M., while in his office, he was called to investigate a shooting incident that resulted in the death of one Edgardo Benitez. He proceeded to the Manila Sanitarium Hospital where the victim was brought, to conduct an initial investigation. There, he met Edgardo's wife, Linda. The two of them went back to the scene of the shooting and later to the Pasay City Police Station where Linda gave her sworn statement to the police.

SPO2 EDUARDO ESTRELLA of the Warrant Section, Pasay City Police Station, testified that on February 20, 1996, he arrested appellant Sunny Garcia by virtue of a warrant of arrest issued by the Makati Regional Trial Court in another case. After the identification of appellant, SPO2 Estrella conducted a formal investigation and referred the case to the prosecutor's office for disposition.

PO2 WARLIE HERMO of the Homicide Investigation Division, Pasay City Police Station, testified that on February 21, 1996 at around 3:00 P.M., he was in his office when appellant was referred to him as one of the suspects in the shooting of Edgardo Benitez. He notified the victim's wife, Linda, who later identified appellant as one of the persons who visited and killed her husband.

SPO2 DANILO BUENAVISTA of the Warrant and Subpoena Section, Pasay City Police Station, testified that on July 18, 1996 around 9:00 A.M., he received information that a certain Rodel Cristobal was then confined at the Pasay City General Hospital for treatment of a gunshot wound. He reported this to SPO4 Valentino Ylagan, who instructed him to check the report. SPO2 Buenavista proceeded to the hospital, found Cristobal, and served the warrant of arrest on him. Rodel Cristobal refused to sign the information sheet but was arrested just the same. SPO2 Buenavista duly notified the RTC of the apprehension of Rodel Cristobal.

For the defense of appellant, two witnesses were presented: appellant Sunny Garcia and his brother, Danilo Garcia.

Appellant interposed the defense of denial and alibi. He claimed that on the evening of December 31, 1995 at about 11:15 P.M. to 11:30 P.M., he was having a drinking spree with his brothers and some friends in their house at No. 675 Gloria Street, Pasay City. Shortly afterwards, he had a midnight dinner with his family and then rested with his wife and children. He claimed he did not leave his house the entire night until January 1, 1996. He further denied any participation in the killing of Edgardo Benitez whom he claimed he did not know. Neither did he know

Linda Benitez whom he claims he saw for the first time only after he was arrested and taken to the Pasay City Police Station on February 20, 1996.

Defense witness DANILO GARCIA corroborated appellant's story in court. He testified that he was at home on December 31, 1995 at 11:00 P.M., drinking with appellant and some friends to celebrate the coming New Year. He further claimed that it was even appellant who cooked and prepared their media noche. He said he was certain that appellant never left their place on the night of the murder.

The trial court found Rodel Cristobal and appellant Sunny Garcia guilty beyond reasonable doubt of the crime of murder in a decision[3] dated January 15, 1998. The dispositive portion reads as follows:

WHEREFORE, the Court finds the two accused Rodel Cristobal and Sunny Garcia guilty beyond reasonable doubt as co-principals, for the crime of murder defined and penalized under Article 248, Revised Penal Code and in the absence of appreciable mitigating or aggravating circumstance are hereby sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalties provided by law, and to indemnify the heirs of the deceased, Linda Mendoza Benitez, in the following amounts:

- a) P50,000.00 for the death of Edgardo Benitez;
- b) P40,000.00 for actual damages;
- c) P500,000.00 for loss of earning capacity;
- d) costs.

SO ORDERED.

Hence, this appeal. Herein appellant contends that the trial court erred:

I

. . . IN CONVICTING ACCUSED-APPELLANT SUNNY GARCIA OF THE CRIME CHARGED DESPITE THE INSUFFICIENCY OF EVIDENCE PRESENTED BY THE PROSECUTION.

II

. . .IN HOLDING THAT CONSPIRACY EXISTS IN THE COMMISSION OF THE CRIME CHARGED.

III

. . . IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF SUPERIOR STRENGTH IN THE COMMISSION OF THE CRIME CHARGED.[4]

According to appellant, the evidence adduced by the prosecution to support its case are purely circumstantial and insufficient to draw a fair and reasonable conclusion that appellant was the assailant. He points out that the only circumstance proven as far as he is concerned was that he was with Rodel Cristobal and a certain Edward in entering the house of the victim before the shooting incident.

He stresses that the prosecution's key witness, Linda Benitez, did not actually see the shooting of her husband. What she witnessed, based on her testimony, was that three men, who appeared to be acquaintances of her husband, arrived at their house on the eve of the New Year. Her husband let them in while she went inside their room. The next thing she saw was her husband with gunshot wounds, lying on the floor in a reclining position while his visitors were running away. There was, therefore, no positive and direct evidence pointing to appellant as the assailant of the deceased Edgardo Benitez.

In contrast, the Office of the Solicitor General contends that the prosecution was able to establish, clearly and satisfactorily, circumstances that constitute an unbroken chain of events which lead to the conclusion that

appellant Sunny Garcia, co-accused Rodel Cristobal, a certain “Tony Manok”, and another person named “Edward” purposely went to the house of Edgardo Benitez to kill the latter as previously agreed upon. This conclusion, according to the OSG, is supported by the following facts: that all the accused, including the appellant, went to the victim’s house; that they stayed there only for a brief moment; that one of them, co-accused “Tony Manok”, remained outside the house and obviously acted as a “look-out”; and that together they left the house right after the victim was shot thrice.

The appeal lacks merit.

Jurisprudential annals are replete with rulings that conviction may be had even based on circumstantial evidence so long as a combination of all the circumstances proven produces a logical conclusion which suffices to establish appellant’s guilt beyond reasonable doubt. Simply put, for circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent and with every other rational hypothesis except that of guilt. Facts and circumstances consistent with guilt and inconsistent with innocence constitute evidence, which in weight and probative force, may surpass even direct evidence in its effect upon the court.[5] Indeed, under the Rules of Court,[6] circumstantial evidence is sufficient to sustain a conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In this case, the foregoing requisites are present.

Several circumstances clearly show that appellant and his three co-accused killed Edgardo Benitez. More specifically, these circumstances are the following:

- (1) On December 31, 1995, a few minutes before New Year’s Eve, appellant Sunny Garcia and co-accused Rodel Cristobal together with a certain “Tony Manok” and a certain “Edward” went to the residence of spouses Edgardo and Linda Benitez.[7]
- (2) Appellant Sunny Garcia, co-accused Rodel Cristobal, and the one named “Edward” went inside the Benitez’ residence. The person named “Tony Manok” remained outside the house.[8]
- (3) A few moments after they came in, Linda heard three gunshots, which she initially thought to be firecracker explosions, and a loud thud on the floor.[9] When Linda looked at the sala where her husband and his guests were, she saw her husband slumped on the floor with gunshot wounds.[10]
- (4) She also saw immediately after the shooting, appellant’s group hurriedly rushing towards the door and out of the house. One of the assailants was shouting to their companion outside, “Patay na Tony Manok” (He is already dead, Tony Manok). [11]
- (5) When Linda asked her dying husband as to who shot him, Edgardo replied, “Rodel, Rodel.”[12]

All these circumstances constitute an unbroken chain which leads to a fair and reasonable conclusion, pinpointing appellant and his companions, to the exclusion of others, as the perpetrators of the crime. These circumstances proven fulfill the test of moral certainty as to produce a conviction in an unprejudiced mind. The Court agrees with the trial court’s disquisition on this point:

x x x In the case at bar, the records show that accused Rodel Cristobal was in the company of three other persons, two of them accompanied him upstairs to meet the victim and the third remained outside to act as look out. When one of them (Rodel) shot the victim the three others, Sunny Garcia, and two unidentified companion ran away together with Rodel, the gunman, to avoid being identified; Rodel Cristobal was identified as the

gunman in a dying declaration given by the victim seconds after the shooting, in the company of a group seen by wife Linda fleeing after the shooting. The identity of Rodel Cristobal was revealed in a dying declaration of the victim made to his wife Linda who, testified in Court. This dying declaration was admissible as a valid exception to the hearsay rule under Sec. 31, Rule 130.

In the same manner, the testimony of Linda Benitez as to her identification of co-accused Sunny Garcia has not been controverted by any disinterested witness. Accused Sunny Garcia presented only himself and his interested brother Danilo to refute the testimony of the widow.[13]

Appellant also contends that the testimony of Linda was tainted with irreconcilable inconsistencies on substantial and material points. However, we find the alleged inconsistencies to be minor in character. Time and again, we have held that minor inconsistencies do not impair the essential integrity of the prosecution's evidence as a whole.[14] The testimony of a single witness, if positive and credible, is sufficient to sustain a conviction for murder.[15] Such is the testimony given by Linda Benitez. Her testimony was express, direct, and explicit. Hence, it is worthy of belief.

Likewise, appellant's defense of alibi cannot prevail over the positive and unequivocal identification of appellant made by Linda in court.[16] Positive identification, where categorical and consistent and without any showing of ill-motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which, if not substantiated by clear and convincing proof, are negative and self-serving evidence undeserving of weight in law.[17]

Additionally, we find that conspiracy was adequately established by the prosecution. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[18] To establish conspiracy, proof of a previous agreement to commit a crime is not essential. It is sufficient that the form and manner in which the attack was accomplished clearly indicate unity of action and purpose. As the trial court found, accused Rodel Cristobal was in the company of three other persons, two of whom accompanied him upstairs to meet the victim while the third remained outside to act as look out. When Rodel shot the victim, all three escaped with him. The victim's dying declaration identified Rodel as the gunman. Also, Linda testified that she clearly saw the men enter the house and flee right after the shooting. When taken together, these facts prove the existence of conspiracy among the assailants.

Abuse of superior strength also attended the commission of the crime. This aggravating circumstance is present when the aggressors purposely use excessive force out of proportion to the means of defense available to the person attacked.[19] In the instant case, appellant and his companions evidently took advantage of their superior strength when they attacked their unarmed, helpless, and unsuspecting victim. Thus, abuse of superior strength was properly appreciated by the trial court.

As regards the civil liability, appellant and his co-accused Rodel Cristobal are jointly and solidarily liable since they acted in conspiracy. The evidence support the award of P40,000 as actual damages corresponding to the amount spent for the burial of the deceased. The award of P50,000 as civil indemnity as well as another sum of P50,000 as moral damages is also proper pursuant to prevailing jurisprudence.

There is, however, the matter of lost income awarded by the trial court to the heirs of the victim. Although appellant did not object to the award, we feel the same is unjustified; hence, it must be deleted. Compensation for lost income is in the nature of damages,[20] and requires due proof of the amount of the damage suffered.[21] For loss of income due to death, there must be unbiased proof of the deceased's average income. Also, the award for lost income refers to the net income of the deceased, that is, his total income less his average expenses.[22] In this case, the trial court mistakenly relied on the unsubstantiated and incomplete testimony of Linda Benitez. Linda

gave only a self-serving statement that her husband's income, including tips, was P20,000 per month. No proof of the victim's expenses was adduced, thus, there can be no reliable estimate of his lost income.

WHEREFORE, the decision dated January 15, 1998 of the Regional Trial Court of Pasay City, Branch 114, in Criminal Case No. 96-8338, finding appellant SUNNY GARCIA and his co-accused RODEL CRISTOBAL, guilty beyond reasonable doubt of MURDER is hereby AFFIRMED with MODIFICATION. They are sentenced to suffer the penalty of reclusion perpetua and to pay jointly and severally to the heirs of the victim, Edgardo Benitez, the amount of P40,000 as actual damages, P50,000 as civil indemnity, and another P50,000 as moral damages. The award of P500,000 for loss of earning capacity, however, is ordered deleted for lack of sufficient legal basis. Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Corona, JJ., concur.

[1] Rollo, pp. 28-39.

[2] Id. at 10.

[3] Id. at 39.

[4] Id. at pp. 71-72.

[5] People vs. Ortiz, G.R. No. 118624, 316 SCRA 407, 411-412 (1999). See also People vs. Rivera, G.R. No. 117471, 295 SCRA 99 (1998); People vs. Quitariorio, et al., G.R. No. 116765, 285 SCRA 196 (1998); People vs. Berroya, G.R. No. 122487, 283 SCRA 111 (1997); People vs. Abrera, G.R. No. 109169, 283 SCRA 1 (1997); People vs. Doro, G.R. No. 104145, 282 SCRA 1 (1997); People vs. Dabbay, G.R. No. 117398, 277 SCRA 431 (1997); People vs. Bonola, G.R. No. 116394, 274 SCRA 238 (1997); People vs. Grefaldia, G.R. No. 121787, 273 SCRA 591 (1997); People vs. Contante, No. L-14639, 12 SCRA 653 (1964).

[6] Section 4, Rule 133, Revised Rules on Evidence.

[7] TSN, May 1, 1996, p. 12.

[8] Id. at 13.

[9] Id. at 20.

[10] Id. at 21.

[11] Ibid.

[12] Folder of Exhibits, p. 2.

[13] Rollo, pp. 35-37.

[14] People vs. Conde, G.R. No. 112034, 252 SCRA 681, 691 (1996).

[15] People vs. Villablanca, G.R. No. 89662, 316 SCRA 13, 21 (1999).

[16] Supra, note 7 at 16.

[17] People vs. Dinglasan, G.R. No. 101312, 267 SCRA 26, 44 (1997).

[18] Article 8, par. 2, The Revised Penal Code.

[19] People vs. Moka, G.R. No. 88838, 196 SCRA 378, 386-387 (1991).

[20] See Heirs of Raymundo Castro vs. Bustos, G.R. No. L-25913, 27 SCRA 327, 334-335 (1969).

[21] De la Paz vs. Intermediate Appellate Court, G.R. No. L-71537, 154 SCRA 65, 76 (1987).

[22] Villa Rey Transit, Inc. vs. Court of Appeals, G.R. No. L-25499, 31 SCRA 511, 517-518 (1970).

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