

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TOMAS COCA JR., RICARDO COCA AND RAMIL COCA, ACCUSED-APPELLANTS.

G.R. No. 133739. May 29, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is an appeal from the decision[1] of the Regional Trial Court of Cebu City, Branch 18, in Criminal Case No. CBU-43013 convicting accused-appellants of the crime of murder; sentencing each of them to suffer the penalty of reclusion perpetua; and to indemnify the heirs of the deceased in the amount of P50,000.00, plus the costs.

The Information against accused-appellants states:

That on or about the 20th day of March, 1996, at about 7:00 o'clock in the evening, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a gun, conniving and confederating together and mutually helping one another, with deliberate intent, with intent to kill, with treachery and evident premeditation, did then and there suddenly and unexpectedly attack, assault and use personal violence upon one Edilberto Banate, by shooting him with said gun, thereby inflicting upon him physical injuries:

“GUNSHOT WOUND”

as a consequence of which said Edilberto Banate died after four (4) months.

CONTRARY TO LAW.[2]

Upon arraignment on January 23, 1997, accused-appellants pleaded not guilty.[3] Trial on the merits thereafter followed.

Accused-appellants and the victim, Edilberto Banate, were related by affinity, and all residents of Cabulihan, Guba, Cebu City. Brothers Ricardo Coca and Tomas Coca, Jr. are the first degree cousins of Merolina Banate, the victim's wife; while Ramil Coca is the son of Ricardo Coca.[4]

At about 9:00 in the evening of March 13, 1996, Tomas, Ricardo and Ramil Coca mauled the victim, as a result of which the latter sustained several injuries and seriously broke his left shoulder.[5] Unluckily, this was just the beginning of the dangers yet to beset him.

A week later, on March 20, 1996, at 7:00 in the evening, while the victim was having supper with his wife Merolina and their two children inside their kitchen, a sudden burst of gunfire emanated from underneath the house. Merolina peeped through the slits on the floor and saw three persons sitting on their heels. The fluorescent lamp which illuminated their kitchen and the 100 watt bulb of the adjacent house directly opposite the kitchen enabled Merolina to identify accused-appellant Tomas, Ricardo and Ramil Coca, who were all underneath the house and looking upwards. Tomas Coca was positioned between Ricardo and Ramil and aiming a gun at

Edilberto. She turned and saw her husband, slumped on the floor with blood oozing from his body.[6]

Meanwhile, Alexander Singson, a visitor at Merolina's house who left earlier to buy cigarettes was alerted by the gunshots. He hurried to the scene and saw the three accused-appellants running away from the house of the victim. Thereafter, he rushed to the house of the victim and helped bring him to the hospital.[7]

The victim sustained a massive gunshot wound on the chest. The bullet pierced the right rib, penetrating the pulmonary region all the way to, and fracturing the spinal column, where the slug was embedded. As a consequence, the victim became paralyzed from waist down. He eventually died on July 2, 1996.[8]

Meronila purposely withheld the identity of the culprits. She feared that revealing the names of the persons who shot her husband would endanger not only her life but also that of her children who were alone in their house all through out the time that she was in the hospital with her injured husband. It was only after almost five months, or on August 19, 1996, that she finally divulged the identities of the perpetrators.[9]

Accused-appellants, on the other hand, raised the defense of denial and alibi. Tomas Coca, Jr. testified that at about 7:00 in the evening of March 20, 1996, he and Ricardo Coca attended a birthday party in the house of a certain Mario Rebales[10] at Calubihan, Guba, Cebu City. Sometime that evening, Ramil Coca arrived and informed them that Edilbero Banate was shot. Then, he followed Ricardo Coca and Pedro Soquib to the house of the victim but he did not proceed when he noticed that there were no more people there.[11] This was corroborated by Ricardo Coca who declared that on the night of March 20, 1996, he and Tomas were in the house of Mario Rebales, as he was hired to cook the food for the birthday party of Rebales' daughter. After sometime, his son, Ramil Coca, arrived and told them that Edilberto Banate was shot. Thereafter, he and Pedro Soquib, followed by Ramil and Tomas, proceeded to the house of the victim, but the latter was already brought to the hospital.[12]

Ramil Coca affirmed the version of Ricardo and Tomas and added that on the night of March 20, 1996, he was eating supper with his family when they heard three successive gunshots. When he and his mother went out to check what happened, they saw Roel Soquib and Melino Leyson carrying the body of Edilberto Banate. Then, at the instruction of his mother, he proceeded to the house of Mario Rebales to inform his father of the shooting incident. Thereafter, his father, Ricardo and Pedro Soquib followed by Tomas, proceeded to the scene of the crime; while he went home.[13]

The version of the defense was further corroborated by the testimonies of defense witnesses Pedro Soquib and Mario Rebales.[14] Defense witnesses Sergio Borres and Roel Soquib, who helped bring the victim to the hospital, further narrated that Merolina Banate told them that she was not able to recognize the culprit because it was dark.[15]

On July 30, 1997, the trial court rendered the assailed judgment of conviction. The dispositive portion thereof reads:

WHEREFORE, in view of all the foregoing facts and circumstances, accused Tomas Coca, Jr., Ricardo Coca and Ramil Coca are hereby imposed each the penalty of RECLUSION PERPETUA with the accessory penalties of the law; to jointly indemnify the heirs of the deceased Edilberto Banate in the sum of P50,000.00 and to pay the costs. The accused, however, are credited in full during the whole period of their detention provided that they will signify in writing that they will abide by all the rules and regulations of the penitentiary.

SO ORDERED.[16]

In their appeal, accused-appellants contend that the prosecution failed to establish beyond reasonable doubt the identity of the perpetrators. They claimed that at 7:00 in the evening, it was impossible for Merolina Banate to

recognize the culprits through a 3/4 inch gap on the bamboo flooring, considering that the area underneath the house where the gunfire allegedly came from was dark. In the same vein, accused-appellants assert that the testimony of Alexander Singson is fabricated. According to them, it is unbelievable that Singson had committed to memory the appearance of the assailants not only because it was dark, but also because Singson himself admitted that he saw the assailants only for the first time during the incident. They further argued that if Merolina indeed recognized the perpetrators, she would have immediately revealed their names to those who responded and to the members of the media who interviewed her. Accused-appellants likewise alleged that Merolina's reaction immediately after the gun bursts was contrary to human experience. The natural reaction would have been to seek cover, turn off the light, shout for help, or cuddle the injured, and not to peep through the floor where the shots came from. Finally, accused-appellants Ricardo and Ramil Coca contend that even assuming that the version of the prosecution were true, they should have been acquitted considering that there was no evidence to show that they connived with accused-appellant Tomas Coca, Jr.

The contentions are without merit.

Visibility is indeed a vital factor in the determination of whether or not an eyewitness have identified the perpetrator of a crime. However, it is settled that when conditions of visibility are favorable, and the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be accepted. Illumination produced by kerosene lamp or a flashlight is sufficient to allow identification of persons. Wicklamps, flashlights, even moonlight or starlight may, in proper situations, be considered sufficient illumination, making the attack on the credibility of witnesses solely on that ground unmeritorious.[17]

In the case at bar, the kitchen/dining area where the victim was shot from underneath the house was illuminated by a fluorescent lamp. There would therefore be light falling on the faces of accused-appellants, especially so that they were all facing upwards. Ordinary human experience would tell us that bamboo flooring with gaps smaller than an inch allows every ray of light emanating from a fluorescent lamp to freely penetrate through the bamboo slats. With this environmental milieu, the fluorescent lamp would indeed provide sufficient illumination to identify the accused-appellants underneath a 3 to 4 feet high bamboo flooring. What is more, the 100 watt bulb of the adjacent house, six meters away, and directly opposite the kitchen where the victim was shot, provided additional illumination below the victim's house. Clearly, therefore, the circumstances surrounding the commission of the crime certainly obliterate the slightest shred of doubt on the veracity of accused-appellant's identification.

Moreover, it is not amiss to state that "relatives of a victim of a crime have a natural knack for remembering the face of the assailant and they, more than anybody else, would be concerned with obtaining justice for the victim by the malefactor being brought to the face of the law." Indeed, family members who have witnessed the killing of a loved one usually strive to remember the faces of the assailants.[18] With more reason therefore that we should believe the positive identification of accused-appellants by Merolina Banate. Being close blood relatives and residents of the same barangay, Merolina would naturally and particularly be familiar with the face and build of accused-appellants.

A reading of the transcript of stenographic notes shows that even under cross-examination, Merolina stayed firm and consistent in her identification of accused-appellants, thus –

ATTY. VAILOCES:

Q.

You will admit that you did not see the person or persons in the act of shooting your husband?

A.

I do not admit because I actually saw the persons who actually shot my husband.

Q.

What did you see?

A.

I saw the three of them.

x x x x x x x x[19]

Q.

You said that you saw Tomas Coca in the act of shooting although that is not stated in your affidavit. My question now is: how were you able to see when it was nighttime?

A.

I intently peep through the floor and because it was well-lighted by the fluorescent lamp I vividly saw them underneath the house. I know them because they are my close relatives.

FISCAL GALANIDA:

There was a portion not translated.

WITNESS:

A.

And even the adjacent area it was also well lighted. Moreover, they are my close relatives even by their smell I could sense they were (sic).

x x x x x x x x

Q.

What light illumines (sic) from (sic) the outside portion of the house?

x x x x x x x x

WITNESS:

A.

It was a 100 watt bulb near our house. It gave bright light from the outside.

Q.

How far is that bulb outside to the place where you allegedly saw Tomas Coca?

x x x x x x x x

A.

Witness indicating a distance of six (6) meters

x x x x x x x x[20]

ATTY. VAILOCES:

Q.

When you said you saw Tomas Coca underneath your house and then left your house of course he was the only one you saw and no other persons?

A.

The three of them. It was Jr. Coca who held the firearm.

X X X X X X X X

ATTY. VAILOCES:

Q.

Now, what were the other two doing at the time you saw them?

A.

They were by the side also looking towards us.

COURT:

Q.

You are sure of that?

A.

I am sure Your Honor.[21]

Accused-appellants were likewise positively identified by prosecution witness Alexander Singson as the persons he saw running away from the house of the victim right after he heard the gunshots. But even if we disregard the testimony of Singson, the persuasive and compelling testimony of the victim's wife, juxtaposed with the circumstances which proved feasible the identification of accused-appellants, are enough to prove their culpability beyond any scintilla of doubt.

Neither does the failure of Merolina to immediately reveal the identity of the culprits cast doubt on the truthfulness of her testimony. It must be stressed that Merolina was anxious of her and her children's safety. The threat on their lives was indeed a deterrent strong enough to mute her. As consistently held by the Court, fear of reprisal and death threats are accepted as adequate explanations for the delay in reporting crimes.[22]

Moreover, Merolina's act of peeping through the flooring immediately after they were fired upon was not contrary to human experience. Merolina was not yet aware that her husband was hit when she instinctively looked through the gaps in the bamboo floor. Hence, her instinct could not have told her at that time to cuddle her husband. At any rate, it is a settled jurisprudence that different people react differently to a given situation and there is no standard form of behavioral response when one is confronted with a strange, startling or frightful experience. One person's spontaneous response may be aggression while another person's reaction may be cold indifference.[23]

While it is true that accused-appellants Ricardo and Ramil Coca did not actually shoot the victim, their conspiratorial acts and omissions would likewise make them liable for his death. Ricardo and Ramil purposely accompanied Tomas underneath the house of the victim, such that they could not be considered innocent spectators. They simultaneously left the scene of the crime together with Tomas and did nothing to stop or prevent the latter from shooting the victim. Finally, they had the motive to kill the victim as they in fact previously mauled him after a misunderstanding.

So also, the defenses of denial and alibi raised by accused-appellants must fail. Not only are said defenses inherently weak, they cannot likewise prevail over their positive identification[24] by prosecution witness Merolina Banate, who was not shown to have been impelled by any ill-motive to falsely impute the commission of the crime against them, her very own relatives. Furthermore, the locus criminis is only 300 meters[25] and 40 meters[26] away, respectively, from the place where accused-appellants Ricardo and Tomas, as well as Ramil, were allegedly at when the crime occurred. This negates the physical impossibility of their presence at the scene of the crime at the time the felony was committed.[27]

There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure the execution of the crime, without risk to himself arising from the defense which the offended party might make. The essence of treachery is the sudden, unexpected, and unforeseen attack on the person of the victim, without the slightest provocation on the part of the latter.[28] Judging from the circumstances which attended the shooting of the deceased, treachery undoubtedly qualified the present case to murder. This is so because accused-appellants obviously devised a way, that is, by shooting the victim from underneath the house, to effectively execute the crime without risk to themselves arising from the defense which the unsuspecting victim might put up.

In sum, the Court finds that the trial court did not err in upholding the version of the prosecution and disregarding the defenses put up by accused-appellants. Though Merolina did not see the actual shooting of her husband, the circumstantial evidences presented by the prosecution are sufficient to sustain a conviction. Under the Rules of Court, conviction based on circumstantial evidence is sufficient 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.[29] Here, more than one circumstance was presented by the prosecution. The victim's wife heard gunshots from underneath their house. Immediately thereafter, she peeped through their bamboo flooring and saw the three accused-appellants sitting on their heels and looking upwards. Accused-appellant Tomas Coca, Jr. was holding a gun pointed upwards while seated between accused-appellants Ricardo and Ramil Coca. When she turned to her husband, she saw that he was shot. As the three accused-appellants fled, prosecution witness Alexander Singson saw them running away from the house of the victim. All these, added to accused-appellants' previous altercation with the victim, form an unbroken chain of circumstances pointing to accused-appellants, and no other, as the persons responsible for the victim's death.

The trial court did not overlook any fact of weight and substance which, if properly considered, would have altered the result of the case. Hence, its findings of facts and assessment of the credibility of the witnesses deserve to be sustained on appeal. For having had the distinct opportunity of directly observing the demeanor and conduct of the witnesses under oath, the trial court is in a better position to ascertain whether or not a witness is telling the truth.[30]

The penalty for the crime of murder is reclusion perpetua to death.[31] The two penalties being both indivisible, and there being neither mitigating nor aggravating circumstance in the commission of the offense, the lesser of the two penalties, which is reclusion perpetua, should be applied pursuant to the second paragraph of Article 63 of the Revised Penal Code.

As for accused-appellant's civil liability, he should, in addition to the P50,000.00 civil indemnity and the costs, further pay the heirs of the deceased the amount of P50,000.00 as moral damages in line with recent jurisprudence.[32]

WHEREFORE, in view of all the foregoing, the decision of the Regional Trial Court of Cebu City, Branch 18, in Criminal Case No. CBU-43013, finding accused-appellants Tomas Coca, Jr., Ricardo Coca, and Ramil Coca

guilty beyond reasonable doubt of the crime of murder and sentencing each of them to suffer the penalty of reclusion perpetua is AFFIRMED with the MODIFICATION that in addition to the P50,000.00 civil indemnity and the costs, accused-appellants are further ordered to pay the heirs of the deceased, jointly and severally, the amount of P50,000.00 as moral damages.

SO ORDERED.

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

[1] Penned by Judge Galicano C. Arriesgado.

[2] Rollo, p. 10.

[3] Rollo, p. 24.

[4] TSN, February 13, 1997, pp. 5-6.

[5] TSN, February 13, 1997, pp. 6-8; Medical Certificate, Records, p. 74.

[6] TSN, February 13, 1997, pp. 8-11; February 21, 1997, p. 6; February 28, 1997, pp. 9-16.

[7] TSN, April 4, 1997, pp. 8-13.

[8] TSN, February 12, 1997, pp. 4-11.

[9] TSN, February 28, 1997, pp. 18 and 22.

[10] Spelled as “Rivales” in the Decision.

[11] TSN, June 4, 1997, pp. 14-18.

[12] TSN, May 23, 1997, pp. 3-8.

[13] TSN, June 3, 1997, pp. 9-13.

[14] TSN, May 15, 1997, pp. 4-6; May 19, 1997, pp. 3-8.

[15] TSN, April 16, 1997, p. 6; May 13, 1997, p. 6.

[16] Rollo, pp. 63-64.

[17] *People v. Mansueto*, 336 SCRA 715, 729 [2000], citing *People v. Biñas*, 320 SCRA 22 [1999]; *People v. Adoviso*, 309 SCRA 1 [1999].

[18] *Ibid.*, citing *People v. Biñas*, *supra*; *People v. Bundang*, 272 SCRA 641 [1993]; *People v. Cawaling*, 293 SCRA 267 [1998].

[19] TSN, February 21 1997, p. 6.

[20] *Ibid.*, pp. 9-10.

[21] *Id.*, pp. 15-16.

[22] *People v. Clariño*, G.R. No. 134634, July 31, 2001, citing *People v. Hilot*, 342 SCRA 128 [2000].

[23] *People v. Panganiban*, G.R. Nos. 138439-41, June 25, 2001, citing *People v. Gutierrez*, 339 SCRA 452 [2000].

[24] *People v. Catubig*, G.R. No. 137842, August 23, 2001.

[25] TSN, May 22, 1997, p. 13.

[26] TSN, June 3, 1997, p. 4.

[27] *People v. Catubig*, *supra*.

[28] *People v. Mantes*, G.R. No. 138914, November 14, 2001.

[29] *People v. Whisenhunt*, G.R. No. 123819, November 14, 2001, citing *People v. Casingal*, 337 SCRA 100 [2000].

[30] *People v. Del Valle, et al.*, G.R. No. 119616, December 14, 2001, citing *People v. Palec, et al.*, 345 SCRA 654 [2000].

[31] Revised Penal Code, Article 248, as amended by Republic Act No. 7659.

[32] *People v. Manzano*, G.R. No. 138303, November 26, 2001, citing *People v. Panado*, 348 SCRA 679 [2000]; *People v. Sullano*, 331 SCRA 649 [2000].

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