

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELIGIO CIRON, JR., ALEX ALDAY (AT LARGE) AND BELEN L. CIRON (ACQUITTED), ACCUSED.

G.R. No. 139409. March 18, 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 Pili, Camarines Sur, Branch 31, in Criminal Case No. P-1898, convicting accused-appellant of the crime of murder, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the heirs of the deceased the amounts of P50,000.00 as death indemnity and P40,200.00 as actual damages.

The information against accused-appellant and his two co-accused states:

That at about 3:00 o'clock in the afternoon of November 20, 1988 in Barangay Salvacion, Ocampo, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring, confederating together and mutually helping one another, with evident premeditation and treachery and with intent to kill, the first two accused aforementioned prodded by the last one, did then and there, willfully, unlawfully and feloniously attack and assault one FRANCISCO C. BORJA with deadly weapons thereby inflicting upon him mortal wounds on his body which caused his death to the damage and prejudice of the heirs of the victim.

ACTS CONTRARY TO LAW.[2]

Accused-appellant and his co-accused Alex Alday evaded arrest. It was only on July 3, 1997 when accused-appellant was apprehended. Accused Alex Alday remain at large. Accused Belen Ciron, mother of accused-appellant, was prosecuted ahead of the two accused, and was acquitted on February 17, 1992.

Upon arraignment on August 12, 1997, accused-appellant pleaded not guilty.[3] Trial thereafter ensued.

The antecedent facts, as culled from the testimony[4] of prosecution eyewitness Isidra Gonzales are as follows:

At around 3:00 in the afternoon of November 20, 1988, Isidra Gonzales was standing by the window of her house in Salvacion, Ocampo, Camarines Sur. She saw accused-appellant Eligio Ciron, Jr., Alex Alday and Belen Ciron standing in front of her house. Alex Alday was shouting and challenging everybody to a fight. Meanwhile, a certain Anastacio Manalo passed by. He was immediately collared by Alday but was eventually released when told by Belen that Manalo was not the one they were after.

When the three accused turned around, they saw the victim, Francisco Borja, standing and smoking a cigarette. They approached him and without warning, Alday suddenly collared the victim and boxed him. The victim was able to parry the blow but Alday immediately drew a knife and stabbed the victim on the lower chin while seizing him by the collar. At this point, accused-appellant grabbed the left shoulder of the victim from behind and stabbed him three times at the back, causing the victim to fall into a ditch. Thereafter, the assailants fled.

The victim managed to walk toward his house where he slumped in front of the doorway. Avelino Borja, the victim's brother, rushed to the victim. Upon learning that it was Alday and accused-appellant who stabbed his brother, Avelino got hold of his bolo and attempted to chase the culprits but was prevailed upon by his brother-in-law to bring the victim to the hospital. The victim was, however, pronounced dead on arrival at the Bicol Regional Hospital in Naga City.

The post-mortem examination on the victim yielded the following results:

FINDINGS:

- Wound, stabbed, 3.0 cm width, edges cleancut (sic) located at the back, 0.5 cm lateral to the left scapula at the level of the 4th intercostal space directed forwards, medially and downwards with a depth of 18.5 cm penetrating left posterior thoracic wall involving the left lung and the left ventricle of the heart.
- Wound, stabbed, 2.5 cm width, edges cleancut (sic) located at the left lumbar area, 8.5 cm above left iliac crest, 10.0 cm from the posterior median line directed forwards, medially and downwards with a depth of 10.5 cm involving left kidney.
- Wound, lacerated, 0.8 cm long running upwards and slightly laterally located at the back, right side, 18.0 cm above right iliac crest and 6.5 cm from posterior median line.
- Wound, lacerated, 3.5 cm long running sideways located at the middle portion of the mandibular area.

CAUSE OF DEATH:

IRREVERSIBLE SHOCK SECONDARY TO ACUTE HEMORRHAGE OF THE WOUND STABBED (sic) OF THE HEART, LUNG AND KIDNEY.[5]

For his defense, accused-appellant claimed that he had nothing to do with the crime and that it was accused Alex Alday who stabbed the victim. According to him, at around 3:00 in the afternoon of November 20, 1988, he was looking for his mother. He chanced upon accused Alex Alday who was in the act of stabbing the victim. He alleged that he tried to pacify Alex Alday but retreated for fear that he might also be stabbed by the latter.[6]

On June 23, 1998, the trial court rendered the judgment of conviction against accused-appellant. The dispositive portion thereof reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the herein accused ELIGIO CIRON, JR., GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized by Article 248 of the Revised Penal Code and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided therefor and to pay the costs thereof. As civil liability, said accused is ordered to pay the amount of NINETY THOUSAND TWO HUNDRED PESOS (P90,200.00) Philippine Currency to the legal heirs of the late Francisco Borja represented by his widow Crisanta Borja but without subsidiary imprisonment in case of insolvency.

The case against accused Alex Alday is again relegated to the archives until he is finally arrested and let an alias warrant of arrest be issued against him with notation that the same shall not be returned until he is actually arrested.

SO ORDERED.[7]

Hence, the present appeal. In his Brief, accused-appellant interposed the lone assignment of error that:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF MURDER BY DISREGARDING THE IMPORT OF THE LATTER'S TESTIMONY.[8]

The case at bar hinges on the issue of credibility of the witnesses. The settled rule is that the assessment of witnesses' credibility and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination. Verily, findings of the trial court on such matters will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended or misinterpreted so as to materially affect the disposition of the case.[9]

A thorough review of the records of the instant case shows that there is no reason to deviate from the rule on credibility of witnesses so as to warrant reversal of the trial court's findings and conclusions. The court a quo did not err in giving credence to the candid and straightforward testimony of prosecution witness Isidra Gonzales positively identifying accused-appellant as one of the culprits. We do not doubt the identification of accused-appellant considering that the crime was committed at daytime, not to mention the witness's familiarity with accused-appellant who was her barrio mate. Moreover, the detailed testimony of Isidra Gonzales is further bolstered by the necropsy report which jibed with her claim that the victim sustained one stab wound under his chin and three at the back.[10] Finally, her statement is entitled to belief as there is no evidence of any improper motive that would move her to falsely implicate accused-appellant to this heinous charge of murder.[11]

The defense of denial raised by accused-appellant cannot prevail over the positive testimony of the prosecution eyewitness. As consistently held by the Court, between the self-serving testimony of the accused and the positive identification by a witness, the latter deserves greater credence.[12]

Then, too, accused-appellant's flight is a clear indication of guilt. It is a well-entrenched doctrine that an accused's flight from the scene of the crime and his act of hiding himself until he was arrested are circumstances highly indicative of his guilt, for, as has long been wisely said, the wicked flee even when no man pursueth but the righteous are as bold as a lion.[13]

The trial court correctly appreciated treachery as a qualifying circumstance in the killing of the victim. The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor, without the slightest provocation on the part of the victim.[14] In the case at bar, accused-appellant stabbed the victim three times at the back when the latter was already wounded and about to fall to the ground. Clearly, therefore, the victim was in no position to defend himself and repel the attack of accused-appellant.

As to the aggravating circumstance of evident premeditation, the evidence on record fails to bear out: (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the offender had clung to his determination; and (3) a sufficient lapse of time between the determination and execution, to allow the accused time to reflect on the consequences of his act. Although the prosecution was able to prove that accused-appellant and his companions were purposely looking for the victim before the stabbing incident, it however failed to establish that the killing of the victim was brought about by a preconceived plan. Hence, evident premeditation cannot be considered in the instant case.

At the time the offense was committed, the crime of Murder was punishable by reclusion temporal maximum to death.[15] There being neither aggravating nor mitigating circumstance proved, the penalty should be imposed in its medium period,[16] i.e., reclusion perpetua.

The civil liability of accused-appellant should be modified. In addition to the award of P40,200.00 for funeral and burial expenses, which were duly substantiated by receipts,[17] plus P50,000.00 death indemnity, accused-appellant is further ordered to pay moral damages in the amount of P50,000.00,[18] as well as damages for the loss of earning capacity of the deceased.

In *People v. Ortiz*,^[19] citing *People v. Panado, et al.*,^[20] and *People v. Cortez, et al.*,^[21] the Court held that the unlawful killing of a person, which may either be murder or homicide, entitles the heirs of the deceased to moral damages without need of independent proof other than the fact of death of the victim. This is so because the law presumes that the death of the victim naturally causes mental anguish, serious anxiety, and wounded feelings to his bereaved family.

The wife of the deceased testified that her husband, a 42-year old farmer at the time of his death, had an average harvest of twice a year from their 2-hectare rice farm, and a net gain of P50,000.00 in six months.^[22] In *People v. Bangcado, et al.*,^[23] we held that such testimonial evidence is sufficient to establish a basis from which the Court can make a fair and reasonable estimate of damages for the loss of earning capacity. Thus, the loss of the earning capacity of the deceased should be computed as follows:^[24]

Net
Earning
Capacity = Life expectancy x Gross Annual Income (GAI)
[2/3 (80-age at death)] - Living expenses (50% of GAI)

$$= 2/3 [(80-42)] \times \text{P}100,000.00 - 50\%$$

$$= 2/3 (38) \times \text{P}50,000.00$$

$$= 25.3 \times \text{P}50,000.00$$

$$= \text{P}1,265,000.00$$

From the foregoing, the life expectancy of the victim who died at 42 years of age, is 25.3 years. Since his income in six months was P50,000.00, his gross annual income would be P100,000.00, from which 50% living expenses would be deducted. Multiplying the difference by the 25.3 - year life expectancy, the victim's unearned income would thus be P1,265,000.00.

WHEREFORE, in view of all the foregoing, the Decision of the Regional Trial Court of Pili, Camarines Sur, Branch 31, in Criminal Case No. P-1898, convicting accused-appellant Eligio Ciron, Jr., of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the deceased the amounts of P50,000.00 and P40,200.00 as death indemnity and actual damages, respectively, is **AFFIRMED**, with the **MODIFICATION** that accused-appellant is further ordered to pay the heirs of the deceased the sums of P1,265,000.00 for the deceased's loss of earning capacity, and P50,000.00 as moral damages.

SO ORDERED.

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

[1] Penned by Judge Martin P. Badong, Jr.

[2] Records, p. 1.

[3] Records, p. 321.

[4] TSN, September 25, 1997, pp. 3-12 and pp. 26-29.

[5] Records, p. 132.

[6] TSN, October 28, 1997, pp. 3-10.

[7] Rollo, p. 51.

[8] Rollo, p. 76.

[9] *People v. Ombrog*, 268 SCRA 93, 100-101 [1997], citing *People v. Cogonon*, 262 SCRA 693 [1996]; *People v. Decena*, 235 SCRA 67 [1994]; *People v. Estrellas, Jr.*, 239 SCRA 235 [1994].

[10] *People v. De Guia*, 280 SCRA 141 [1997], citing *People v. Molina*, 213 SCRA 52 [1992].

[11] *People v. Paynor*, 261 SCRA 615, 626 [1996], citing *People v. De la Cruz*, 229 SCRA 754 [1994].

[12] *People v. De Castro*, 252 SCRA 341, 351 [1996], citing *People v. Aurella*, 231 SCRA 394 [1994].

[13] *People v. Tañote*, 238 SCRA 443, 455, citing *U.S. v. Sarikala*, 37 Phil. 486 [1918]; *People v. Castor*, 216 SCRA 410 [1992]; *People v. Iran*, 216 SCRA 575 [1992].

[14] *People v. Macuha*, 310 SCRA 14, 23-24 [1999].

[15] Article 248, Revised Penal Code.

[16] Article 64(1), Revised Penal Code.

[17] Exhibits “G” - “G-3”.

[18] *People v. Castellano*, G.R. No. 130596, February 15, 2002.

[19] G.R. No. 133814, July 17, 2001.

[20] 348 SCRA 679 [2000]<.

[21] 348 SCRA 663 [2000].

[22] TSN, October 7, 1997, p. 22.

[23] 346 SCRA 189, 209 [2000], citing *People v. Verde*, 302 SCRA 690 [1999]; *Pantranco North Express, Inc. v. Baesa*, 179 SCRA 348 [1989].

[24] *People v. Enguito*, 326 SCRA 508, 529 [2000].

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