

FERNANDO MANANGAN, PETITIONER, VS. COURT OF APPEALS (EIGHTH DIVISION) AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 139908. March 10, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review of the Decision[1] of the Court of Appeals in CA-G.R. CR No. 20815 affirming, on appeal, the Decision[2] of the Regional Trial Court of Baguio City, Branch 7, in Civil Case No. 4813-R convicting the petitioner of homicide.

The petitioner was charged with homicide in an Information, the accusatory portion of which reads:

That on or about the 15[th] day of July 1987, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab CARLOS ESTACIO Y BARTOLOME, thereby inflicting upon the latter hypovolemic shock secondary to massive intrathoracic (sic) hemorrhage, bilateral due to stabbed wound (sic) passing through and through the aorta, which injuries directly caused the death of said Carlos Estacio.[3]

The petitioner, assisted by counsel, was arraigned and entered a plea of not guilty.

The Case for the Petitioner

As culled by the trial court and adopted by the Court of Appeals, the People's case is as follows:

Johnny It-itan testified that on the night of July 15, 1987, he was at the bowling lanes located near the Aurora Cinema, Baguio City (tsn, July 11, 1989, pp. 1 to 5). It-itan was in the company of his friends, Elena, Alberto Baculo, Diego Caslang and Ibanez Hagey (ibid, p. 4). While inside the bowling lanes, It-itan saw the victim Carlos Estacio and a certain Mr. Lacsamana talking to each other. It-itan was at that time about five (5) meters away from Estacio and Lacsamana (ibid, pp. 5 & 6). A little later, Estacio left Lacsamana but Lacsamana followed him (Estacio) and immediately struck Estacio on the head with a bottle (ibid, p. 5.) At this point, appellant Fernando Manangan rushed to Estacio and attacked Estacio with a knife (ibid, p. 5). One of It-itan's companions, Alberto Baculo, went to help Estacio but he (Baculo) was wounded in the process, hence, It-itan and his other companions brought Baculo to a nearby hospital (ibid, p. 7).

Another prosecution witness, Angelina Tobias testified that on July 15, 1987, about 10:00 o'clock in the evening, she was with Evan Hagey, Caslang Loley Zarate, Juliet Bin-es, Johnny It-itan and Carlos Estacio (tsn, Sept. 7, 1987, p. 4). They were at the Olympian Bowling Lanes located at Mabini St., Baguio City (ibid, p. 3). While inside the bowling lanes, Angelina saw a commotion where the victim Carlos Estacio was held by Freddie Lacsamana while appellant Fernando Manangan stabbed Estacio twice (ibid, p. 4).

Because of fear, Angelina left the bowling lanes and immediately proceeded to the vehicle she and her companions were using, which was parked outside the bowling lanes (ibid, p. 5). Thereafter, Angelina and her companions left the vicinity of the incident (ibid, p. 8)

Dr. Emmanuel Fernandez, medico-legal officer of the Baguio Health Department, Baguio City, testified that sometime in June 1988, one of his colleagues in the clinic, Dr. Clemente Casuga left for the United States of America and endorsed to him the records of the cases where he (Dr. Casuga) had conducted autopsies. Among the records endorsed by Dr. Casuga to Dr. Fernandez was the case of Carlos Estacio, whose corpse Casuga had autopsied on July 16, 1987 (tsn, January 24, 1989, p. 3).

The autopsy report issued by Dr. Casuga describes the injuries sustained by the victim as follows:

- Contusion, hematoma, left eyebrow, 2 cms. in diameter
- Lacerated wound, right parietal area, 3 cms. linear, 1 cm. deep
- Lacerated wound right parietal area, 2.5 cms. linear, 1 cm. deep
- Lacerated wound right parietal area, 2.5 cms. linear, 1 cm. deep
- Stabbed (sic) wound, right chest at the level of 3rd ICS MCL, right (Trajectory – to the left and inwards) hitting through and through the upper lobe of the right lung, ascending aorta and the upper lobe of the left lung
- Blood recovered from the left thoracic cavity 2 liters while 2.2 liters recovered from the right thoracic cavity
- Final Diagnosis: Hypovolemic shock secondary to massive intrathoracic hemorrhage bilateral due to a stabbed (sic) wound passing through and through the aorta. (Appellee's brief, pp. 3-7; Rollo, pp. 56-60)[4]

The Case for the Petitioner

The petitioner denied stabbing the victim and identified Freddie Lacsamana as the assailant. His evidence is as follows:

- Arsenio G. Algaba, married, 30 years old, taxi driver and a resident of No. 21-B Campo Filipino, Naguilian Road, Baguio City. He testified that on July 15, 1987, he was with the accused in front of Empire Cinema, Abanao Street, Baguio City. He invited the accused to dinner since it was his birthday. They ate at the Dainty Restaurant and after eating, they proceeded to the Olympian Lanes where they stayed up to 10:00. While inside, and when they went to the canteen managed by Monching, they heard shouts inside the bowling lanes. He saw Freddie Lacsamana holding a knife chasing somebody inside the bowling lanes. He saw someone stabbed. The accused rushed to Freddie Lacsamana and grabbed the knife from the latter and gave the knife to another person. The accused told Lacsamana to stop but he instead shouted "vulva of your mother," "release me." There was a block out and they went out of the bowling lanes and then they went home.

When asked, the witness denied that Manangan stabbed somebody in the bowling lanes and stated that Manangan only took away the knife but he admitted that the accused and Lacsamana knew each other even before the incident. He does not know the person stabbed by Lacsamana. Lacsamana is his friend and a co-driver for five (5) years.

- Fernando Manangan, 34 years old, contractor and residing at Camp Allen, Baguio City. He testified that in the afternoon of July 15, 1987, he was standing at the Empire Cinema at Abanao Street when his friend Arsenio Algaba passed by. His friend invited him to celebrate his birthday. They ate at the Dainty Restaurant and later proceeded to the Olympian Bowling Lanes. They watched the games and he saw Freddie Lacsamana seated at the counter near the entrance. Later, he heard Freddie shouting and quarrelling and saw him holding a knife chasing somebody. He saw Lacsamana stabbing somebody and he tried to stop and pacify Lacsamana but the latter protested saying "don't mind me." He was able to wrestle the knife from Lacsamana and passed it to a person behind him. After the incident, he and his friend proceeded home. He denied stabbing the victim.

On cross-examination, he stated that Lacsamana settled his case filed with Branch 6. There were two persons stabbed. One of the victims is the one with whom Lacsamana settled and the other victim is the deceased

Carlos Estacio. [5]

On March 10, 1997, the trial court rendered judgment convicting the petitioner of the crime charged. The decretal portion of the decision reads:

WHEREFORE, in view of all the foregoing, JUDGMENT is hereby rendered sentencing accused Manangan, after applying the Indeterminate Sentence Law, to suffer imprisonment of from Eight (8) years of prision mayor as minimum to Seventeen (17) years and Four (4) months of reclusion temporal, as maximum.

The accused Manangan is ordered to pay Fifty Thousand Pesos (P50,000.00) as indemnity to the legal heirs of the deceased Carlos Estacio (Art. 2206).[6]

The trial court gave credence and full probative weight to the testimonies of Johnny It-itan and Angelina Tobias, but disbelieved the testimony of the petitioner and his witness Arsenio Algaba.

On appeal, the petitioner prayed that the Court of Appeals reverse the decision of the RTC on his claim that the trial court erred, as follows:

... (1) in giving undue credence to the prosecution witnesses Johnny It-itan and Angelina Tobias and (2) in not acquitting the accused on the ground of reasonable doubt. ...[7]

The Court of Appeals ruled on the issues raised by the petitioner and affirmed the decision of the trial court.

In his petition for review in this Court, the petitioner reiterates the same issues and submitted the same argument he made before the Court of Appeals.

The petitioner contends that the trial court and the Court of Appeals erred in giving credence and full probative weight to the testimonies of It-itan and Tobias despite the inconsistencies therein, and in finding his testimony and that of his witness Algaba incredible.

We reject the contention of the petitioner. The well-settled rule is that the findings of fact of the trial court as well as its calibration of the evidence of the parties, its assessment of the credibility and probative weight of the witnesses, and its conclusion based on its findings are accorded by the appellate court high respect, if not conclusive effect, unless the trial court ignored, misconstrued or misinterpreted facts and circumstances of substance, which if considered, will alter the outcome of the case.[8] In this case, the findings of the trial court and its conclusions were affirmed by the Court of Appeals. We have reviewed the records and we find no justification to deviate from the findings and conclusions of the trial court.

The petitioner avers that It-itan testified that he saw the petitioner as he approached the victim while holding a knife. The petitioner, likewise, cited a portion of It-itan's testimony, thus:

PROS. BANTA:

Q

While you were inside the bowling lanes that night of July 15, 1987, do you remember if there was any unusual incident that happened?

A

This case, sir.

Q

What is this case you are referring to?

A

The incident regarding the death of Carlos Estacio, sir.

Q

What actually happened at the bowling lanes on the night of July 15, 1987?

A

First, I was in front (sic) of the bowling alley I recognized Carlos Estacio and Mr. Lacsamana sitting there at the same time facing the canteen, they were talking then Estacio left, Lacsamana followed him, then Lacsamana struck the head of Estacio with a bottle. Fernando Manangan went to help Carlos Estacio, [who] ran towards the bowling lanes and he was followed by the two, Manangan and Lacsamana. That is all, sir.[9]

But the petitioner merely quoted the portion of It-itan's testimony which was favorable to his case and omitted those parts which were unfavorable to him. Such act of counsel is censurable.

The rest of the testimony of It-itan is as follows:

Q

What else did you see?

A

I saw Manangan when he approached holding a knife, Your Honor, that is all I saw.

Q

What else? Place on record that the witness cannot give additional answer.

...

PROS. BANTA:

There is no question yet insofar as the question, Your Honor.

A

What I saw, they were attacking Carlos Estacio, sir.

Q

And what in particular did Manangan do with respect to Carlos Estacio?

A

He attacked him with a knife, sir.

Q

How did this Fernando Manangan attack Estacio with the knife?

A

They were attacking him while Carlos Estacio stepping back, sir.

PROS. BANTA:

Q

How did this Fernando Manangan and Lacsamana attack Carlos Estacio?

A

Witness demonstrating they were standing and facing each other, then this Lacsamana attacked Estacio with a bottle, while Fernando Manangan was thrusting the knife and then Estacio ran towards the bowling lanes, sir.

Q

How many times did you see Fernando Manangan thrust the knife on Carlos Estacio?

A

I cannot remember, sir.

Q

Do you know if Carlos Estacio had been hit by the thrust of Manangan?

A

I cannot say whether he was hit or not but I can remember he was hit by the bottle, sir.

Q

How far were you from the protagonist at the time?

A

About 5 meters, sir.[10]

The petitioner belabored It-itan's failure to specifically mention the full name of Angelina Tobias and her

companions in going to the bowling lanes. He asserts that contrary to the testimony of Tobias, the latter did not witness the stabbing. The petitioner raised the same issue in his motion for reconsideration in the Court of Appeals, and the appellate court ruled in this wise:

In appellant's Motion for Reconsideration, he claims that there was error in relying on the testimony of Johnny It-itan who attested that appellant went to help the victim and in giving credence to the testimony of witness Angelina Tobias who was allegedly not at the crime scene. These matters and arguments have already been invoked by appellant in his brief and disposed of in Our Decision dated February 16, 1999. There being no cogent reason to alter the same, said motion must fail.

WHEREFORE, the Motion for Reconsideration is hereby DENIED for lack of merit.[11]

We agree with the Court of Appeals. The submission of the petitioner does not hold water. Tobias testified that she was with It-itan and the rest of their co-workers at the Olympian Bowling Lanes when the petitioner stabbed the victim. She witnessed the stabbing and pointed to the petitioner as the assailant, thus:

PROS. BANTA:

Q

At about eleven o'clock in the evening of July 15, 1987, do you still remember where you were?

A

Yes, sir.

Q

Where were you at that time and day?

A

Inside the bowling alley, sir.

Q

Which bowling alley are you referring to?

A

It is near Aurora Theatre, sir.

Q

Do you remember the name of this bowling lanes?

A

I cannot remember, sir.

Q

And where is this located along Mabini Street?

A

It can be near the vicinity of Aurora Theatre Olympian Bowling Alley, sir.

Q

And did you have any companion at that time while you were in the Olympian Bowling Lanes the night of July 15, 1987?

A

We were several because at that time we had an outing.

Q

Will you please give the names of your companions at the Olympian Bowling Lanes that night of July 15, 1987?

A

Evan Hagey, Caslang Loley Zarate, Juliet Bin-ec, Johnny It-itan, Carlos Estacio.[12]

The counsel of the petitioner did not cross-examine Tobias on her testimony that she was with It-itan. A careful perusal of It-itan's testimony reveals that he did not state that Tobias was not with him at the time. He merely mentioned that he was with Elena, Albert, Iban, Caslang and Loloy, but failed to state the surnames of Elena and Loloy when asked to do so.

PROS. BANTA:

Q

For how long did you stay at the bowling lanes that night of July 15, 1987?

A

I cannot tell the specific time, sir.

Q

Did you have any companion in going to the bowling lanes that night of July 15, 1987?

A

I have, sir.

Q

Who were your companions at the time?

A

Company workers, sir.

Q

Could you give the names of your companions?

A

Elena, Albert, Iban, Caslang and Loloy, sir.

Q

Can you give the family names or complete names of these persons you have mentioned?

A

Albert Baolo, Diego Caslang, Ibang Hagay, sir.[13];

However, the testimony of Tobias cannot be ignored simply because It-itan failed to mention her name, or the full name of Elena when he testified. There is no evidence on record that Elena was not in fact Angelina Tobias.

The petitioner's settlement with the victim on the charge of frustrated homicide against him is irrelevant in the resolution of this case.

IN THE LIGHT OF ALL THE FOREGOING, the petition is DENIED. The decisions of the RTC and the Court of Appeals are AFFIRMED. Costs against the petitioner.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.
Puno, (Chairman), J., on leave.

[1] Penned by Associate Justice Presbitero J. Velasco, Jr. (now Court Administrator) with Associate Justices Consuelo Ynares-Santiago (now Associate Justice of the Supreme Court) and Bennie A. Adefuin-de la Cruz.

[2] Penned by Judge Clarence J. Villanueva.

[3] Rollo, pp. 33- 34.

[4] Id. at 34-35.

[5] Rollo, pp. 35-36.

[6] Id. at 36.

[7] Id. at 36.

[8] *People of the Philippines v. Jerryvie Gumayao y Dahao @ Bivie*, G.R. No. 138933, October 28, 2003.

[9] TSN, 11 July 1989, p. 5 (Underscoring supplied).

[10] TSN, 11 July 1989, pp. 5-6.

[11] Rollo, p. 58.

[12] TSN, 7 September 1989, pp. 3-4.

[13] TSN, 11 July 1989, p. 4.

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