PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE NASAYAO Y BORROMEO, SR., ACCUSED-APPELLANT.

G.R. No. 141237. September 17, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Jose Nasayao y Borromeo, Sr. was charged with Murder before the Regional Trial Court of Tabaco, Albay, Branch 15, in Criminal Case No. T-3162. The Information reads:

> That on the 20th day of April 1999, more or less 7:00 o'clock in the evening at Bgy. Balading, Municipality of Malinao, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court said accused did then and there with malice aforethought and with deliberate intent to take the life of one Joves Camata, willfully, unlawfully, feloniously with premeditation and treachery while the victim was eating and watching television at the house of one Renato Casabuena suspect (Jose Nasayao) suddenly appeared, attack/stab for three (3) times with a kitchen knife measuring more or less 12 inches long including handle hitting on his chest & other parts of his body being necessarily mortal, thereby causing his instantaneous death.
>
> ACTS CONTRARY TO LAW.[1]

Accused-appellant pleaded "not guilty" to the charge,[2] and trial on the merits ensued.

Prosecution witnesses Marnel Casabuena and Anthony Buelva testified that at 7:00 in the evening of April 20, 1999, they were watching television on the porch of Casabuena's house at Barangay Balading, Malinao, Albay. With them at that time were Joves Camata, Noli Canon and Mamel's brothers and sisters.[3]

All of a sudden, accused-appellant Jose Nasayao, Sr. entered the house and approached Joves Camata, who was eating and watching television. Camata was squatting on a bench and holding his plate. Accused-appellant held a knife in each hand. He approached the victim and said, "Taposon mo na ang pagkaon mo" (Finish your meal). After uttering these words, and without any warning, accused-appellant stabbed Camata on his right chest using the knife in his left hand, followed with another thrust on the left chest using the knife in his right hand. Camata fell on his back. The people who were present scampered and ran away. Thereafter, accused-appellant left the scene of the crime.[4]

The two prosecution eyewitnesses positively identified accused-appellant as the person who stabbed the victim. At the time of the incident, Marnel Casabuena was only an arm's length away from accused-appellant, while Anthony Buelva was seated beside Camata. The house where the stabbing incident took place was well-lit and there were several people around as they were watching television. Immediately after the stabbing, Marnel Casabuena went to the police station to report the incident, while Joves Camata was brought to the Ziga Memorial District Hospital, where he was pronounced dead on arrival.[5]

Dr. Dante B. Bausa, the Municipal Health Officer of the Rural Health Unit of Malinao, Albay, testified that Joves Camata sustained two fatal stab wounds. The first stab wound, which was inflicted on his right chest, measured 5

cm. in width and penetrated the “superior portion of the right lung,” while the second, measuring 5.5 cm., was inflicted on the left chest about 7 cm. below the nipple and was “directed supero-medially incising the infero-medial portion of the lung and penetrated into the ventricles of the heart.”[6]

Accused-appellant admitted having inflicted the stab wounds on the victim, but claimed that it was accidental and that, at most, he must only be held liable for homicide and not murder. He testified that on April 20, 1999, after arriving in their house from the ricefield, he rested for a while. Between the hours of 6:00 to 7:00 in the evening, he went to the house of the Casabuenas to fetch his grandson, Harry Nasayao, but did not find him there. He proceeded to the store on the highway to look for his wife and his grandson. Again, he failed to find them. He went back to the house of the Casabuenas.

When he entered the house, he saw several persons, one of whom was the victim, Joves Camata. He approached Camata and told him that they had something to discuss. However, Camata reacted angrily by striking him with a porcelain plate, hitting him on the forehead. Then, he kicked him twice on the groin. Accused-appellant was taken aback, and instinctively pulled out his knife. However, Camata lunged at him and tried to grab his neck. Accused-appellant decided to run outside the house but a bench blocked his way, so he turned to his left, thereby accidentally hitting the victim with his knife. Accused-appellant was then able to leave the house but the victim still chased him and kicked him on the back. This angered accused-appellant so he used his knife to ward off some blows. Thereafter, accused-appellant went home. A short while later, the policemen arrived, and he surrendered to them.[7]

Together with the testimony of accused-appellant, the defense offered in evidence the Police Blotter[8] to show that he voluntarily surrendered; and the Autopsy Report[9] to show that the wounds sustained by the victim did not correspond to the version of the incident as narrated by prosecution witness Anthony Buelva, particularly as to the direction of the victim’s stab wounds.[10]

On August 31, 1999, the court a quo rendered the assailed decision, the dispositive portion of which reads as follows:

> WHEREFORE, judgment is hereby rendered finding the accused JOSE NASAYAO y BORROMEO SR. guilty beyond reasonable doubt of the crime of MURDER as defined and penalized under Art. 248 of the Revised Penal Code and hereby sentences him to the penalty of Reclusion Perpetua with all the accessory penalties provided by law and to indemnify the heirs of Joves Camata the sum of Seventy Five Thousand Pesos (P75,000.00) for the death of the victim and as actual damages as stipulated and agreed upon by the parties.10

Hence this appeal, raising the following errors:

I

THE TRIAL COURT ERRED IN GIVING MORE FAITH AND CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESSES AND DISREGARDING THE THEORY HONESTLY ADVANCED BY THE DEFENSE.

II

THE TRIAL COURT ERRED IN NOT FINDING THAT ACCUSED-APPELLANT IS GUILTY OF THE CRIME OF HOMICIDE AND NOT MURDER.[11]

Accused-appellant's first assignment of error hinges on the question of credibility of the prosecution witnesses. He argues that the testimonies of the prosecution witnesses are replete with contradictions, thereby casting doubt on their reliability. The first inconsistency refers to the television programs that they were watching at the time the

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stabbing incident took place. Buelva stated that it was “TV Patrol”[12] while Casabuena said it was “Magandang Gabi Bayan.”[13] Also, Buelva testified that accused-appellant stabbed the victim thrice,[14] while Casabuena testified that accused-appellant stabbed the victim only twice.[15] Lastly, Casabuena narrated that when accused-appellant entered the house, he was holding both knives in his hands, and after a short remark to the victim, he immediately stabbed the latter with the two knives.[16] On the other hand, Buelva stated that when accused-appellant entered the house, the two knives were tucked in his waist.[17]

We are not convinced.

The alleged inconsistencies claimed by accused-appellant refer only to minor details which do not affect the credibility of the testimonies of the two eyewitnesses. The fact remains that they categorically identified the victim as the one who suddenly entered the Casabuena house and stabbed the victim. Considering that the witnesses were present at the time the incident happened and had an unobstructed view of what transpired, undoubtedly, their eyewitness account of the incident must be given full faith and credit.

This Court has consistently ruled that findings of the trial court as to the credibility of witnesses are accorded great weight, even finality, on appeal, unless the trial court has failed to appreciate certain facts and circumstances, which, if taken into account, would materially affect the result of the case.[18] The reason for this rule is that trial courts have superior advantages in ascertaining the truth and in detecting falsehood as they have the opportunity to observe the manner and demeanor of witnesses while testifying.[19] From a perusal of the testimony of both witnesses, we find no cogent reason to disregard the trial court's findings.

For as long as the mass of the testimony jibes on material points, the slight clashing of statements dilute neither the witnesses’ credibility nor the veracity of the testimony. Variations on the testimony of witnesses on the same side with respect to minor, collateral or incidental matters do not impair the weight of their united testimony to the prominent facts.[20] In fact, slight contradictions even serve to strengthen the sincerity of a witness and prove that his testimony is not rehearsed. They are fail-safes against memorized perjury. We have said that even the most truthful witnesses can make mistakes but such innocent lapses do not necessarily affect their credibility.[21]

Minor inconsistencies and contradictions among witnesses testifying on the same incident may be expected because different persons may have different impressions or recollections of the same incident. One may remember a detail more clearly than another. Witnesses may have seen that same detail from different angles or viewpoints.[22] They do not have to be consistent in every detail as differences in recollections or viewpoints or impressions are inevitable. More importantly, a witness testifying about the same horrifying event can hardly be expected to be correct in every detail and consistent with other witnesses in every aspect, considering the inevitability of differences in perception, recollection, viewpoint or impressions, as well as their physical, mental, emotional and psychological states at the time of reception and recall of such impressions.[23] Indeed, if rights were to be lost merely because witnesses, while agreeing on the essential fact, fail to testify harmoniously on all the particulars, a very large proportion of cases involving wrongs would find no redress in law.[24]

Anent the second assignment of error, evidence on record show that the killing was attended by the qualifying circumstance of treachery.

The records show that the prosecution’s version of the stabbing incident is substantiated by overwhelming evidence. The autopsy report fully supports the narration of the incident by the prosecution witnesses.[25]

The victim, while squatting on top of a bench and eating his meal with a plate in one hand, was certainly in no position to defend himself or to retaliate. Accused-appellant may have forewarned Joves about what he was about to do by telling him to finish his meal. Nevertheless, accused-appellant did not wait for Joves to finish. He did not

give Joves the opportunity to stand up. Joves not only failed to reply to accused-appellant's order for him to finish his meal, but also failed to make any instinctive reaction to the perceived threat posed by accused-appellant who was holding two knives. From all indications, the attack on Joves was sudden and unexpected.

There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[26]

Treachery may still be appreciated even when the victim was forewarned of the danger to his person. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[27]

Thus, we affirm the decision of the trial court finding accused-appellant guilty beyond reasonable doubt of the crime of Murder, which is punishable under Article 248 of the Revised Penal Code with Reclusion Perpetua.

The trial court's award of civil indemnity in the amount of P75,000.00 should be reduced to P50,000.00 in line with prevailing jurisprudence.[28] Considering the attendance of the qualifying circumstance of treachery, the Court further awards exemplary damages in the amount of P25,000.00. In People v. Catubig,[29] we emphasized that insofar as the civil aspect of the crime is concerned, exemplary damages in the amount of P25,000.00 is recoverable if there is present an aggravating circumstance (whether qualifying or ordinary) in the commission of the crime.[30]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Tabaco, Albay, Branch 15, in Criminal Case No. T-3162, finding accused-appellant Jose Nasayao y Borromeo guilty beyond reasonable doubt of murder and imposing on him the penalty of Reclusion Perpetua, is AFFIRMED with MODIFICATION. Accused-appellant is ORDERED to pay the heirs of Joves Camata the reduced amount of P50,000.00 as civil indemnity and the amount of P25,000.00 as exemplary damages.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.

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[1] Record, p. 1.

[2] Ibid., p. 23.

[3] TSN, August 18, 1999, pp. 5 & 14.

[4] Ibid., pp. 6-9.

[5] Rollo, Appellee's Brief, pp. 75-76.

[6] Exhibit "B", Rollo, pp. 76-77.

[7] TSN, August 25, 1999, pp. 4-9.

[8] Exhibit "1".

[9] Exhibit "2".

[10] Rollo, pp. 14-19; at pp. 18-19; penned by Judge Arnulfo B. Cabredo.

10

[11] Ibid., p. 37.

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[12] TSN, August 19, 1999, p. 16.

[13] Ibid., p. 18.

[14] Ibid., p. 24.

[15] TSN, August 18, 1999, p. 8.

[16] Ibid., pp. 6-7.

[17] TSN, August 19, 1999, p. 11.

[18] People v. Batidor, 303 SCRA 335, 345 [1999] .

[19] People v. Manegneg, 316 SCRA 689, 698 [1999] .

[20] People v. Lucena, G.R. No. 137281, April 3, 2001, citing People v. Binas, 320 SCRA 22 [1999] .

[21] People v. Reduca, 301 SCRA 516, 534 [1999] .

[22] People v. Fabros, 214 SCRA 694, 698 [1992] .

[23] People v. Carullo, 311 SCRA 689, 691 [1999] .

[24] People v. Rada, 308 SCRA 191, 202 [1999] .

[25] Decision, Records, p. 49.

[26] People v. Rosario, 337 SCRA 169, 174-175 [2000] .

[27] People v. Tanoy, 332 SCRA 12, 18 [2000] .

[28] People v. Villamor, G.R. Nos. 141908-09, January 15, 2002.

[29] G.R. No. 137842, August 23, 2001.

[30] People v. Samson, G.R. No. 124666, February 15, 2002.

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