

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DENNIS DUNGCA MANALO, FREDDIE DUNGCA, MICHAEL DUNGCA, AND BENJAMIN CRUZ, JR., ACCUSED.

G.R. No. 144734. March 07, 2002

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

For the horrible demise of Rodrigo Malonzo, four individuals, namely, Dennis Dungca Manalo, Freddie Dungca, Michael Dungca, and Benjamin Cruz, Jr., were charged with murder in an information which reads as follows:

That on or about the 10[th] day of August 1997, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding and abetting one another, armed with a bladed weapon, with intent to kill, with evident premeditation, treachery and taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of RODRIGO MALONZO y PANGILINAN by stabbing him several times on the different parts of his body, thereby inflicting upon him serious and fatal injuries which caused his death.[1]

Of the four accused, the first to be apprehended was Dennis Dungca Manalo, who pleaded guilty to the lesser crime of homicide during the pre-trial conference. Taking into consideration such voluntary plea of guilty and applying the Indeterminate Sentence Law, the trial court, in its decision[2] dated 17 June 1999, sentenced him to suffer an indeterminate penalty ranging from eight years and one day of prison mayor as minimum to thirteen years of reclusion temporal as maximum and to pay the victim's heirs in the amount of P50,000 as death indemnity.

The next to be arrested was accused Benjamin Cruz, Jr., alias "Pogi." After trial, he was found guilty beyond reasonable doubt as an accomplice to the crime of murder in the trial court's decision[3] dated 22 September 1999. He was sentenced to suffer an indeterminate penalty ranging from twelve years of prison mayor as minimum to seventeen years of reclusion temporal as maximum and to pay the victim's heirs P47,000 as actual damages and P50,000 as moral damages; he was further held subsidiarily liable for the P50,000 death indemnity adjudged against Dennis.

Subsequently, herein accused-appellant Freddie Dungca (hereafter FREDDIE) was arrested. Michael Dungca, however, has remained at large.

At the separate trial of the case against FREDDIE, the prosecution adopted the testimonies of the eyewitness Rolando Bengco (hereafter ROLANDO), the victim's wife Evangeline Malonzo, and the investigating police SPO3 Delfin Moyco, which were presented during the trial against Benjamin. The victim's brother Ramon Malonzo was also presented as an additional witness.

Culled from their testimonies, it was established that at about 9:00 p.m. of 10 August 1997, while ROLANDO was on his way home after buying barbecue at the corner of Pampang Road and P. Zamora St. in Angeles City, he

saw accused Dennis Dungca and the victim Rodrigo Malonzo having an altercation, with the latter demanding payment for the bicycle allegedly stolen by the former. In the next instant, he heard Rodrigo shout “Bili yu ko!” (Release me!). Upon glancing back, ROLANDO caught sight of FREDDIE holding Rodrigo’s right hand and Michael, the left. Dennis pulled out a knife and repeatedly stabbed Rodrigo on his chest, while Benjamin, who was behind the victim, was pushing the victim towards Dennis. ROLANDO forthwith ran away and looked for the victim’s brother Ramon. Upon finding the latter, he broke the bad news to him. On their way to the crime scene, he revealed to Ramon the authors of the crime as Dennis, Michael, FREDDIE and Benjamin. Upon arriving at the crime scene, they saw Rodrigo lying down on the ground, bathed in a pool of his own blood.[4]

Later, SPO3 Moyco arrived in a mobile patrol. He, together with ROLANDO and Ramon, then rushed the victim to the hospital. On the way, Rodrigo told his brother Ramon that Dennis, FREDDIE, and Benjamin were the ones who attacked him. Not long after, Ramon drew his last breath and was pronounced dead upon arrival at the hospital.[5] The post-mortem examination on the victim’s cadaver disclosed that the cause of his death was “massive and traumatic hemorrhage due to multiple stab wounds,” the most serious of which were those in the heart and lungs.[6]

The victim’s wife testified that she had been suffering sleepless nights since the death of her husband,[7] and she spent P3,500 for the flowers;[8] P17,900 for the funeral services;[9] and P25,600 for the memorial lot.[10]

As might be expected, FREDDIE proffered a different version. He claimed that in the morning of 10 August 1997, while he was having a drinking spree with Benjamin and their two friends along P. Zamora St., Angeles City, he saw and heard Dennis and Rodrigo cursing each other. While Rodrigo’s hands were tucked inside the front pockets of his pants, Dennis stabbed him. FREDDIE summoned Dennis to ask why he was doing it. Unmindful of his call, Dennis continued stabbing Rodrigo. After his last thrust on the victim, Dennis fled and the people nearby scampered away. FREDDIE was the only one left. When this incident was unfolding, ROLANDO and Michael Dungca were nowhere in sight.[11]

After a while, the victim’s brother Ramon arrived and brought the victim to the hospital. FREDDIE then went to his hometown, Sta. Cruz, Porac, Pampanga. Learning that he was being hunted by the victim’s relatives, he decided not to return to Angeles City anymore. [12]

FREDDIE’s testimony was corroborated by Edgar Datu. Specifically, he testified that he saw FREDDIE among the people standing near the store watching while the unfortunate event was unfolding before their eyes.[13]

In its decision[14] dated 24 March 2000, the trial court ruled that conspiracy could be deduced from the acts of the three assailants, with two of the accused holding the arms of the victim and the third, thrusting a knife into the victim’s chest. Thus, it held FREDDIE equally liable as the two other assailants and appreciated against him the qualifying circumstance of abuse of superior strength. It then convicted him of murder and sentenced him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim P47,000 as actual damages; P50,000 as moral damages; and P50,000 as death indemnity to be paid by him and Dennis jointly and severally. Hence, this appeal.

In his Brief, accused-appellant FREDDIE imputes to the trial court the following errors:

I

THE LOWER COURT ERRED IN BLINDLY
BELIEVING THE TESTIMONY OF ROLANDO
BENGCO NOTWITHSTANDING THE FACT
THAT HE WAS NOT PRESENT AT THE SCENE

OF THE CRIME AND THE PRESENCE OF
EVIDENCE SHOWING THE BIAS CHARACTER OF
HIS TESTIMONY IN THE LIGHT OF THE EVIDENCE
ADDUCED SHOWING THE CONTRARY.

II

THE LOWER COURT ERRED IN CONVICTING
ACCUSED-APPELLANT OF THE CRIME AS
CHARGED IN THE INFORMATION DESPITE THE
FAILURE OF THE PROSECUTION TO PROVE
HIS GUILT BEYOND REASONABLE DOUBT.

III

THE LOWER COURT ERRED IN NOT IMPUTING
MOTIVE ON THE PART OF THE PROSECUTION
WITNESS ROLANDO BENGCO AGAINST ACCUSED-
APPELLANT TO SATISFY HIS LUST FOR VENGEANCE.

IV

THE LOWER COURT ERRED IN NOT
ACQUITTING THE ACCUSED-APPELLANT.[15]

On the other hand, the OSG asseverates that these errors are aimed at assailing the findings of facts of the trial court, particularly the full faith and credence it attached to the testimonies of the prosecution witnesses. Since the trial court was in a better position to determine the credibility of the witnesses and absent certain facts of substance which have been overlooked that might affect the result of the case, there is no cogent reason to rule differently on the issue of credibility. It then prays that the trial court's decision be affirmed in toto, since the prosecution was able to establish appellant's guilt beyond reasonable doubt.

We find the appeal to be bereft of merit.

Time and again we have ruled that the findings of facts of the trial court, especially on the issue of the credibility of witnesses, are accorded great respect and even finality. This is so because the trial court has the peculiar advantage to observe the witnesses firsthand and note their demeanor, conduct, and attitude under grueling examination; it is, therefore, in the best position to assess their credibility.[16] Nevertheless, we shall address the issues raised by the appellant.

In his Brief, FREDDIE claims that ROLANDO was nowhere to be found in the area when the stabbing incident occurred. In support of this claim, he harps on the testimony of prosecution witness SPO3 Moyco that he saw ROLANDO for the first time only when he went back to the crime scene to investigate. According to him, Moyco's testimony is devoid of any statement that ROLANDO was present at the crime scene from the time of the incident up to the time the victim was brought to the hospital.

We are not convinced. Apropos is the testimony of SPO3 Moyco:

ATTY. Pamintuan: (to witness)

Q

So you saw for the first time Rolando Bengco at the scene of the incident?

A

Hindi ko po alam noon na nandoon si Bengco. Ng malaman ko noong mag-imbistiga ako, sir, kasi inuna ko muna ang victim para madala sa hospital para ma-save ang life niya.

Q

After you have gone from the hospital you went back to the scene of the incident or to your station?

A

No, sir, sa lugar ng pinangyarihan. At the scene nag-conduct ako ng imbestigasyon.

Q

That is where you met Rolando Bengco?

A

Yes, sir.

Q

How did you meet Rolando Bengco?

A

Nakita ko po sa lugar ng pinangyarihan. Dahil napagtanungan ko iyong ibang tao doon sabi nila si Roland Bengco daw po ang naka[k]ita sa pagsaksak sa victim ni Dennis.

Q

Who told you that?

A

Iyong mga istambay doon, sir.[17]

Certainly, SPO3 Moyco was not in a position to testify that ROLANDO was present at the crime scene when the crime was being committed because, in the first place, Moyco came to the scene only after the stabbing incident occurred. That Moyco did not notice the presence of ROLANDO when he brought the victim to the hospital is

understandable. His dominant concern then was to save the life of the victim. He was too preoccupied to notice or recognize the persons present in the area. It was only when he was informed by the bystanders that ROLANDO had witnessed the commission of the crime that he paid particular attention to ROLANDO.

Appellant next attempts to cast doubt on the credibility of the prosecution witnesses by inviting our attention to the following alleged inconsistencies in their testimonies:

(1)

At first, ROLANDO stated that both of the victim's hands were held behind his back while he was being stabbed, but later he demonstrated that both of victim's hands were stretched sideways as if crucified.

(2)

ROLANDO and Ramon testified that the former was the one who reported the incident to the latter. Evangeline, on the other hand, testified that it was their neighbor Manuel de la Cruz who informed her of the incident; her children, brother-in-law Ramon, and mother-in-law were with her at the time this information was relayed to her.

(3)

SPO3 Moyco and ROLANDO said that the police car broke down and that they transferred the victim to another vehicle, while Ramon stated that he and the police brought the victim direct to the hospital.

These inconsistencies pertain merely to minor details. In a plethora of cases, it has been held that discrepancies and inconsistencies on trivial matters neither impair the integrity of the prosecution's evidence as a whole nor reflect on the witness' honesty. Such inconsistencies, which might have been caused by the natural fickleness of memory, even tend to strengthen, rather than weaken the credibility of the witness, for they shake off the suspicion of a rehearsed testimony.[18]

In another effort to plant some seeds of doubt on the credibility of the eyewitness ROLANDO, appellant points out the failure of the former to name the police who took down his statements. Again, this matter is too trivial to affect the credibility of ROLANDO. It does not detract from the established fact that he witnessed the commission of the crime and positively identified appellant as one of the perpetrators thereof.

Lastly, FREDDIE asserts that improper motive existed on the part of ROLANDO that taints his testimony. He admitted that on 24 December 1993, he mauled and beat ROLANDO with a 2" x 2" piece of wood, which rendered the latter unconscious and caused him serious injuries for which he almost died.[19] To satisfy his lust for vengeance, ROLANDO seized this chance to strike back at him by implicating appellant in the killing of Rodrigo.

We are not convinced. Worthy to note is the testimony of ROLANDO that he did not know who was responsible for his injuries because he was very drunk at the time; he did not even come to know who brought him to the hospital. None of his drinking companions told him about the incident, for they had no knowledge either.[20]

In refutation of such claim of ROLANDO, appellant argues that considering the seriousness of the injuries ROLANDO sustained, it would be contrary to the natural course of human behavior for him to be disinterested to know how it happened, who were responsible, and who brought him to the hospital; yet in the incident subject of this case, "he took all the trouble to locate the brother of Rodrigo Malonzo to tell him of what happened to Rodrigo and even went to the extent of helping in bringing the victim to the hospital and offered to testify for the

prosecution.”

Contrary to appellant’s claim, such acts of ROLANDO cannot be taken as a way of extracting revenge. Instead, he must be commended for helping in bringing the victim to the hospital and in bringing the culprits to the bar of justice. That he did not know who were responsible for the injuries he sustained in that previous incident is confirmed by the fact, as admitted by appellant,[21] that he did not file a complaint against his assailants. Had he known his attackers, the best balm that could assuage what he suffered would have been to see them behind bars for the crime committed against him, and not just to implicate them in a crime committed against another.

We see no shred of doubt that ROLANDO had witnessed how the accused snuffed out the life of Rodrigo and how appellant participated therein. Moreover, as correctly held by the trial court, the absence of defensive wounds on the victim’s arms bolsters the testimony of ROLANDO that the victim was held immobile by the appellant and his co-accused while the victim was being stabbed; it also belies appellant’s allegation that the victim tried to ward off the blows.

Indeed, the act of the appellant of holding the victim’s right hand while the victim was being stabbed by Dennis shows that he concurred in the criminal design of the actual killer. If such act were separate from the stabbing, appellant’s natural reaction should have been to immediately let go of the victim and flee as soon as the first stab was inflicted.[22] But appellant continued to restrain the deceased until Dennis completed his attack.

Conspiracy was evident from the acts of the four accused, with two of them seizing the victim’s arms and holding him immobile, one holding his back, and another thrusting a knife on the victim. These acts indubitably point to a joint purpose, concerted action, and community of interest.[23] Having joined in the criminal conspiracy, appellant in effect adopted as his own the criminal design of his co- conspirators.[24] Hence, as a co-conspirator whose participation emboldened the actual killer and contributed to the success of the common design, appellant is liable as a co-principal in the killing of Rodrigo.[25]

Aside from ROLANDO’s positive identification of FREDDIE as one of the culprits, the dying declaration of the victim pointing to him (FREDDIE) as one of the assailants affirms appellant’s complicity in the crime. Doubtless, that declaration satisfies all the requisites for it to be admissible, to wit, (1) it refers to the cause and circumstances surrounding the declarant’s death; (2) it was made under the consciousness of an impending death; (3) it was made freely and voluntarily without coercion or suggestion of improper influence; (4) it was offered in a criminal case in which the death of the declarant is the subject of the inquiry; and (5) the declarant must have been competent to testify as a witness had he been called upon to testify.[26]

We agree with the trial court in appreciating the qualifying circumstance of abuse of superior strength. It was established that FREDDIE and Michael were holding the hands of the victim behind his back and Benjamin was pushing him toward Dennis as the latter was successively thrusting the knife at the victim. This clearly shows that the four accused deliberately took advantage of their number and combined strength to consummate the crime; they used excessive force out of proportion to the means of defense available to the deceased, who was then alone and unarmed.[27] The latter was certainly no match to the four accused. Hence, with the presence of the qualifying circumstance of abuse of superior strength, the killing is elevated to murder.[28]

Now on the civil liability of the accused-appellant.

Under the Revised Penal Code, if there are two or more persons civilly liable for a felony, the courts shall determine the amount for which each must respond.[29] This notwithstanding, the principals, accomplices, and accessories, each within their respective class, shall be liable severally (in solidum) among themselves for their quotas, and subsidiarily for those of the other persons liable.[30]

As earlier stated, Dennis Dungca Manalo, who was held guilty as principal in the killing of Rodrigo Malonzo, was sentenced to pay the victim's heirs P50,000 as death indemnity. No actual or moral damages were adjudged against him for lack of proof thereof. In a separate decision, Benjamin Cruz, Jr., who was found guilty as an accomplice, was held subsidiarily liable for the death indemnity imposed on Dennis and was further ordered to pay P47,000 as actual damages and P50,000 as moral damages.

Conformably with the provisions of the Revised Penal Code, herein accused-appellant, as principal in the crime of murder, should be declared solidarily liable for the death indemnity of P50,000 awarded to the victim's heirs, as well as for the actual and moral damages adjudged against Benjamin.

WHEREFORE, the assailed decision of the Regional Trial Court of Angeles City, Branch 59, in Criminal Case No. 97-590, finding accused-appellant FREDDIE DUNGCA guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, to pay the victim's heirs P47,000 as actual damages and P50,000 as moral damages, and to pay solidarily with Dennis Dungca P50,000 as death indemnity is hereby AFFIRMED with the modification that his liability for the actual and moral damages is solidary with Benjamin Cruz, Jr.

Costs de oficio.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Rollo, 4.

[2] Per Judge Eliezer R. de los Santos. Rollo, 15-16.

[3] Id., 17-29.

[4] TSN, 30 July 1999, 11-17; TSN, 25 January 2000, 10-15, 20; TSN, 1 February 2000, 3-4.

[5] TSN, 30 July 1999, 17-18; TSN, 1 February, 4-5.

[6] Exhibit "C."

[7] TSN, 23 July 1999, 12-13.

[8] Exh. "G."

[9] Exh. "G-1."

[10] Exh. "G-2."

[11] TSN, 4 February 2000, 5-9, 13, 19-20.

[12] Id., 8-9, 22-23.

[13] TSN, 10 February 2000, 3-4, 8-13.

[14] Rollo, 30-39.

[15] Rollo, 53-54.

[16] *People v. Mendoza*, 332 SCRA 485, 494 [2000]; *People v. Pardua*, G.R. No. 110813, 28 June 2001; *De la Cruz v. Court of Appeals*, G.R. No. 139150, 20 July 2001.

[17] TSN, 20 January 2000, 9.

[18] *People v. Villanueva*, 339 SCRA 482, 499 [2000]. See also *People v. Gutierrez*, 339 SCRA 452, 460 [2000].

[19] TSN, 4 February 2000, 10.

[20] TSN, 25 January 2000, 6-8.

[21] TSN, 4 February 2000, 12.

[22] *People v. Lotoc*, 307 SCRA 471, 48 [1999].

[23] *Id.*; *People v. Sala*, 311 SCRA 301, 318 [1999]; *People v. Honra*, 341 SCRA 110, 132 [2000].

[24] *People v. Pagpaguitan*, 315 SCRA 226, 244 [1999].

[25] *People v. Altabano*, 317 SCRA 708, 717 [1999]; *People v. Abordo*, 321 SCRA 23, 39 [1999].

[26] Section 37, Rule 130, Rules on Evidence; *People v. Leonor*, 305 SCRA 285, 298 [1999]; See also *People v. Molina*, 311 SCRA 517, 525 [1999]; *People v. Maramara*, 317 SCRA 222, 230 [1999].

[27] *People v. Platilla*, 304 SCRA 339, 355 [1999]; *People v. Apelado*, 316 SCRA 422, 431 [1999]; *People v. Bautista*, 331 SCRA 170, 188 [2000].

[28] Article 248 (1), Revised Penal Code.

[29] Article 109.

[30] Article 110, 1[st] par.

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