

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEONILO PIDOY Y LANGRIO, APPELLANT.

G.R. No. 146696. July 03, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Appellant Leonilo Pidoy y Langrio was charged with Murder in an information[1] which reads:

That on or about the 5th day of April, 1997, in the Municipality of Victorias, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with evident premeditation and treachery and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and stab one ROMEO SANTIA, thereby inflicting injuries upon the body of the latter which caused his death.

CONTRARY TO LAW.

The information was docketed as Criminal Case No. 4035-69 of the Regional Trial Court of Silay City, Negros Occidental, Branch 69. Appellant pleaded "not guilty" at his arraignment. Trial on the merits then ensued.

The prosecution alleged that on April 5, 1997, the victim, Romeo Santia, was drinking tuba with Pablo Brillantes and Rodito Barrientos at the Barrientos' residence in Hacienda Tison, Gawahon, Victorias, Negros Occidental. At 5:00 p.m., appellant Leonilo Pidoy arrived and joined the three. He was drunk. The three offered appellant a glass of tuba but he refused. Instead, he argued with Santia about their work. Their argument became heated and when appellant approached Santia, they grappled, exchanged blows and wrestled at the stairs. After about two minutes, Rodito Brillantes was able to break up the fight. Pablo Brillantes' mother-in-law led appellant to the side of the rice field while Santia remained and sat beside Pablo Brillantes at the front yard of the house.

After a short while, appellant returned holding a combat bolo, locally known as ginunting, and repeatedly stabbed Santia on the chest and other parts of the body. He then uttered, "that is enough", and fled. Santia died as a result of his wounds.

Dr. Jerry A. Pahantang, Municipal Health Officer of Victorias, Negros Occidental, who conducted the autopsy, found that Santia sustained four stab wounds and that the proximate cause of death was hypovolemic shock secondary to massive hemorrhage due to multiple stab wounds.[2]

The defense denied the prosecution's allegations. Dominador Ortiz claimed that in the afternoon of April 5, 1997, he accompanied appellant to the latter's house to change clothes. He noticed several persons having a drinking spree. One of them, a big man, offered appellant a drink but he refused as it was against his religion. The big man asked appellant for some money, but the latter replied that he had not received his salary. This angered the big man, who then poured liquor on appellant's head, pushed and kicked him. The others ganged up on appellant until he fell to the ground. Then, an unidentified person arrived holding a bolo and stabbed the big man. After the melee, the big man was left lying on the ground while appellant was holding a bolo. Dominador and appellant

then fled.

The trial court gave credence to the prosecution's evidence and rendered a decision,[3] the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, this Court finds the accused, Leonilo Pidoy y Langrio, Guilty of the crime of Murder, as defined in Art. 248 of the Revised Penal Code of the Philippines, as amended, attended by the qualifying circumstance of Treachery, as his guilt had been established beyond reasonable doubt.

Accordingly, this Court, sentences him to suffer the penalty of Reclusion Perpetua, the same to be served by him at the National Penitentiary, Muntinlupa, Rizal.

Accused, Leonilo Pidoy is further ordered to indemnify the heirs of the late Romeo Santia the sum of FIFTY THOUSAND PESOS as moral and exemplary damages, and to pay the cost of this suit.

Accused, Leonilo Pidoy, shall, in the service of his sentence, be given full credit for the entire period of his detention pending trial.

Hence, this appeal based on the foregoing arguments:

I

THE LOWER COURT ERRED IN FINDING THAT TREACHERY WAS ESTABLISHED BY THE PROSECUTION;

II

THE LOWER COURT ERRED IN NOT CONSIDERING THE FATAL WEAKNESS OF THE TESTIMONY OF PROSECUTION WITNESS PABLO BRILLANTES IN TERMS OF IMPROBABILITIES, GROSS INCONSISTENCIES AND IRRECONCILABLE CONTRADICTIONS;

III

THE LOWER COURT ERRED IN NOT CONSIDERING THAT THE VICTIM'S DEATH WAS CAUSED IN A TUMULTUOUS AFFRAY AS DEFINED UNDER ARTICLE 251 OF THE REVISED PENAL CODE; AND

IV

THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PRESENT VITAL CORROBORATIVE EYEWITNESSES NAMED BY ITS LONE STAR WITNESS.[4]

Appellant generally assails the trial court's findings of fact which were based mostly on the testimony of lone prosecution witness Pablo Brillantes. We see no reason to depart from the well-entrenched doctrine that findings of facts of the trial court are accorded due respect and weight unless it has overlooked material and relevant points that would have led it to rule otherwise. The time-honored rule is that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between truth and falsehood. Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses, unless it be clearly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[5]

In the assessment of evidence, much depends on the credibility, not only of witnesses, but also of the testimonies themselves. In assessing the defense's testimonial evidence, the trial court observed, thus:

This Court notes, with keen interest, that the participants of this submitted incident, other than accused himself, Leonilo Pidoy, were without appellations. They were not identified. These loose statements of unsubstantiated assertions, insusceptible of reasonable verification, lacking in requisite and pertinent details, inevitably led to a reasonable conclusion that what is laid by the defense before this Court is a poorly-crafted, concocted narrative of events and personalities which never took place nor existed. Testimony to be believed, must not only proceed from the mouth of a credible witness, but it must be credible as logic dictates clearly. Defense's stand miserably fails to measure up to this standard.[6]

Appellant's submission, therefore, that Santia's death was the result of a tumultuous affray is a futile and belated attempt to explain the circumstances of his death. Curiously, appellant himself did not take the witness stand to give substance to his defense like identifying the perpetrator or perpetrators or even naming some of the participants in the alleged tumultuous affray.

Even then, the lack of credibility of the defense's testimonial evidence was not the basis of appellant's conviction but rather the credibility of main prosecution eyewitness Pablo Brillantes. The trial court observed that:

A candid, straightforward, and direct account of this incident was given by prosecution witness, Pablo Brillantes, whose testimony was corroborated on material points by the injuries sustained by Romeo Santia (Exhibit "A" - prosecution), and the testimony on the same given by Dr. Jerry A. Pahamtang.[7]

Pablo Brillantes steadfastly pointed to appellant as the one who stabbed Santia with a combat bolo. He was sure of appellant's identity as he had known him for two years.[8] The crime scene was also illuminated by a wick lamp.[9] Experience dictates that, precisely because of the unusual acts of violence committed right before their eyes, eyewitnesses can remember with a high degree of reliability the identity of the criminals at any given time. Hence, the proximity and attention afforded the witnesses, coupled with the relative illumination of the surrounding area, bolsters the credibility of identification of the appellant.[10]

Significantly, the defense did not dispute the presence of Pablo Brillantes at the crime scene. All the defense could say was that it was not appellant who stabbed Santia.

Moreover, the defense could not point to any ill motive on the part of Pablo Brillantes for identifying appellant as the perpetrator of the crime. When there is no evidence to indicate that the principal witness for the prosecution was moved by an improper motive, the presumption is that such motive was absent, and that the witness' testimony is entitled to full faith and credit. Between appellant's denial and the witness' positive testimony, there is no doubt that the latter is entitled to credence.[11]

The credibility of Pablo Brillantes' account was further enhanced by its corroboration on material points by Dr. Pahamtang. Contrary to the defense's contention, there was, in this case, no need for the prosecution to present corroborative eyewitnesses. One eyewitness is sufficient to convict as long as he is found to be credible and without any ill-motive to testify against appellant as in this case.

In any event, the prosecution has the exclusive prerogative to determine whom to present as witnesses. The prosecution need not present each and every witness but only such as may be needed to meet the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt. The testimonies of the other witnesses may, therefore, be dispensed with if they are merely corroborative in nature. We have ruled that the non-presentation of corroborative witnesses does not constitute suppression of evidence and is not fatal to the prosecution's case.[12]

Neither are the alleged inconsistencies and improbabilities cited by appellant fatal to the prosecution's case. More specifically, appellant argues that while Pablo Brillantes testified during his direct examination that appellant arrived drunk at the place of the incident at about 5:00 p.m.,[13] he stated on cross-examination that appellant

arrived at 5:40 p.m.[14]

The inconsistency is more apparent than real. In his direct examination, Pablo Brillantes estimated the time of appellant's arrival "at about 5:00 in the afternoon." [15] He did not say that appellant arrived at exactly 5:00 in the afternoon. It has been held that an error in the estimation of time is too immaterial to discredit the testimony of a witness, especially when time is not an essential element or has no substantial bearing on the fact of the commission of the offense.[16] This is a minor and insignificant detail that will not affect the finding that appellant perpetrated the crime.

Furthermore, inconsistencies in the testimonies of witnesses which refer to minor and insignificant details do not destroy their credibility. Such minor inconsistencies even manifest truthfulness and candor and erase any suspicion that the testimony was rehearsed.[17]

Appellant likewise claims that it is unbelievable for him to be drunk during that time because, as a member of the Iglesia ni Cristo, he is "disciplined not to drink any wine." [18] Besides, there was no evidence that he was drunk. Appellant's claim, aside from being self-serving, is non-sequitur. Moreover, his intoxication is a non-issue in this case.

Appellant also branded as incredible and unbelievable Pablo Brillantes' testimony that it was he who challenged Santia to a fistfight, saying that he could not have done that considering that Santia was of larger built. This, again, is non-sequitur.

Finally, appellant assails the trial court's finding of treachery, alleging that the elements thereof were not present in this case.

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 especially to ensure its execution, without risk to himself arising from any defense which the offended party might make. For treachery to be appreciated, the prosecution must prove: (a) that at the time of the attack, the victim was not in a position to defend himself, and (b) that the offender consciously adopted the particular means, method or form of attack employed by him.[19]

Appellant claims that the wrestling and the stabbing incident were continuous such that there was no lapse of time during which Santia may have relaxed his guard and failed to foresee appellant's next move. Furthermore, assuming that he did stab Santia, it was an instinctive reaction on his part to protect himself and get hold of the bolo, which was the only available weapon at that time. In other words, he did not deliberately and consciously use the said weapon to stab the victim. Finally, he argues that since the attack was frontal, there was no treachery.

The essence of treachery is a deliberate and sudden attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape.[20] Treachery may be committed even if the attack is frontal, but no less sudden and unexpected, giving the victim no opportunity to repel it or offer any defense to his person.[21] 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.[22]

Pablo Brillantes testified that the wrestling incident occurred at 7:30 p.m.[23] The crowd broke up the fight and appellant was led away to the side of the ricefield while Santia stayed and sat at the front yard. At 8:00 p.m., appellant returned and stabbed Santia in the chest with a bolo.[24] There was, therefore, an appreciable lapse of time from the first encounter between appellant and Santia to the stabbing incident. Nevertheless, Santia was taken unaware by the turn of events when appellant suddenly appeared in front of him and, before he could instinctively react to protect himself, stabbed him. The fact that Santia was sitting down[25] and presumably inebriated indicates that he had let his guard down. Significantly, he was unarmed when he was stabbed. From all

indications, the attack on Santia was treacherous.

Therefore, appellant was guilty of Murder, which is punishable by reclusion perpetua to death.[26] There being no other mitigating or aggravating circumstances, the lesser of the two indivisible penalties shall be imposed.[27]

The trial court failed to award civil indemnity to the heirs of the victim. Article 2206 of the Civil Code provides that when death occurs as a result of a crime, the heirs of the deceased are entitled to be indemnified, without need of any proof thereof.[28] Hence, the trial court should have awarded civil indemnity in the amount of P50,000.00 in line with prevailing jurisprudence.[29]

The trial court also erred when it awarded the amount of P50,000.00 as moral and exemplary damages without indicating what amount constitutes moral damages and exemplary damages.

The award of P50,000.00 by the trial court should be deemed as moral damages, which are awarded without need of further proof and in line with prevailing jurisprudence.[30] It is awarded for the anguish suffered by the victim's wife because of the victim's death. In addition, exemplary damages must also be awarded considering the attendance of treachery which qualified the killing to Murder. Under Article 2230 of the Civil Code, exemplary damages as part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. The term aggravating circumstances as used therein is to be understood in its broad or generic sense since the law did not specify otherwise. The ordinary qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil liability of the offender.[31] Thus, the heirs of the victim are entitled to exemplary damages in the amount of P25,000.00.[32]

WHEREFORE, in view of all the foregoing, the decision of the Regional Trial Court of Silay City, Branch 69, in Criminal Case No. 4035-69, finding appellant Leonilo Pidoy y Langrio GUILTY beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of reclusion perpetua, is AFFIRMED with the MODIFICATION that appellant is ORDERED to pay the heirs of the victim Romeo Santia, the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Vitug, Carpio, and Azcuna, JJ., concur.

[1] Records, p. 1.

[2] Exhibit "A", Records, p. 65.

[3] Penned by Judge Felipe G. Banzon of the Regional Trial Court of Negros Occidental, Branch 69, Silay City.

[4] Rollo, p. 40.

[5] *People v. Piedad*, G.R. No. 131923, 5 December 2002.

[6] Records, p. 104.

[7] *Ibid.*

[8] TSN, December 16, 1997, p. 7.

[9] *Ibid.*, p. 8.

- [10] People v. Piedad, *supra*.
- [11] People v. Andarme, G.R. No. 140426, 30 July 2002.
- [12] People v. Bulfango, G.R. No. 138647, 27 September 2002.
- [13] TSN, December 16, 1997, p. 4.
- [14] TSN, February 18, 1998, p. 10.
- [15] TSN, December 16, 1997, p. 4.
- [16] People v. Baniega, G.R. No. 139578, 15 February 2002.
- [17] People v. Villegas, G.R. No. 138782, 27 September 2002.
- [18] Appellant's Brief, Rollo, p. 52.
- [19] People v. Piedad, *supra*.
- [20] People v. Piedad, *supra*.
- [21] People v. Villegas, *supra*.
- [22] People v. Nasayao, G.R. No. 141237, 17 September 2002.
- [23] TSN, February 18, 1998, p. 11.
- [24] *Ibid.*, p. 10.
- [25] TSN, December 16, 1997, p. 6.
- [26] Revised Penal Code, Art. 248.
- [27] Revised Penal Code, Art. 63(2).
- [28] People v. Villegas, *supra*.
- [29] People v. Peña, G.R. No. 133964, 13 February 2002.
- [30] People v. Acosta, G.R. No. 140402, 28 January 2003.
- [31] People v. Catubig, G.R. No. 137842, 23 August 2001, 363 SCRA 621, 635.
- [32] People v. Nicolas, G.R. No. 137702, 1 April 2003.

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