

JOEL P. GONZALES, JR., PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 159950. February 12, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Decision[1] dated March 11, 2003 of the Court of Appeals in CA-G.R. CR No. 22157, affirming the guilty verdict against petitioner for arson by the Regional Trial Court (RTC) of Quezon City, Branch 97.

Petitioner Joel P. Gonzales, Jr.[2] was charged in an Information[3] dated July 24, 1997, which read as follows:

That on or about the 26[th] day of June, 1997, in Quezon City, Philippines, the said accused, did then and there wilfully, unlawfully, feloniously and deliberately set fire to an inhabited place, to wit: a two-storey residential building which [was] partitioned into dwellings rented out to tenants, owned and occupied likewise by CARLOS C. CANLAS, located at No. 120 corner Halcon and Simon Streets, Brgy. San Isidro Labrador, La Loma, Quezon City, thereby setting said residential building into flames and razing it including other properties; and that the properties that were burned with their corresponding owners and value were as follows:

1. The residential building and other property owned by Carlos C. Canlas valued at P3,000,000.00
2. Property of Nicasio M. de Jesus valued at 800,000.00
3. Property of Andres V. Villaflor valued at 350,000.00
4. Property of Gloria V. Lacasandile valued at . . .350,000.00
5. Property of Carmen B. Principio valued at 300,000.00
6. Property of Dante L. Buri valued at 185,000.00
7. Property of Francis F. Simpao valued at 170,000.00
8. Property of Luisito C. Abonita valued at . . . 150,000.00
9. Property of Miraflor Saldi Manuel valued at . . 100,000.00
10. Property of Estrella C. Villaflor valued at . . 60,000.00

with the total of FIVE MILLION, FOUR HUNDRED SIXTY FIVE THOUSAND (P5,465,000.00), all belonging to the aforesaid persons, to the damage and prejudice of said owners in the aforesaid amount of P5,465,000.00, Philippine Currency.

CONTRARY TO LAW.

On arraignment, the petitioner pleaded not guilty.

At the ensuing trial, the prosecution presented eyewitness Carlos C. Canlas, owner of the two-storey building in the corner of Halcon Street and Simon Street, Brgy. San Isidro Labrador, La Loma, Quezon City. He testified that at about 9:30 p.m. on June 26, 1997, he was watching television in his room when his daughter called his attention to check the commotion in an adjacent room. On his way to the room rented by Gonzales, he smelled gas. He saw

Gonzales ignite a flame and throw it on a pile of clothes in the middle of the living room where Gonzales had also placed an M-Gas liquefied petroleum gas (LPG) tank. Fire quickly spread to the other parts of the building.

The prosecution also presented two tenants, Andres V. Villaflor and Francis F. Simpao, as witnesses. Villaflor testified that he heard Gonzales and his aunt quarreling before the fire. He said he heard Gonzales yell "Susunugin ko itong bahay na ito!" Alarmed, he went to the Barangay Hall to report the incident but immediately went back to his place when someone informed him his house was on fire. Simpao testified that he saw the fire coming from Gonzales's room. He added that Gonzales was laughing while the building was burning. After the fire was extinguished, the aunt of Gonzales told Simpao that her nephew was to blame.

The testimonies were corroborated by Police Officer Alejandro Mendoza, who testified that when he and his fellow officer arrived at the crime scene, Gonzales admitted responsibility for the fire.

Gonzales presented a different story. He averred that the fire was caused by faulty electrical wiring. He testified that he was napping inside his room when he was awakened by heat beside his bed. The room was on fire. He shouted for help and Canlas tried to help him but they failed to extinguish it.

Gonzales denied he and his aunt were quarreling that evening before the fire started. As his aunt was partly deaf, he said he had to speak in a loud voice. He averred that he merely asked his aunt to buy food because they ran out of M-Gas LPG. Gonzales said that when he met PO1 Mendoza, he explained that he noticed the fire had started in his room. He sought police protection from his neighbors who accused him of starting it.

The defense presented as exhibit the Physical Science Report[4] prepared by Police Inspector Grace M. Eustaquio showing that the ashes obtained from the burnt premises were negative of any flammable substance.

On May 28, 1998, the RTC of Quezon City, Branch 97 rendered a decision convicting Joel P. Gonzales, Jr. of arson, as follows:

WHEREFORE, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of the crime charged and is hereby sentenced to suffer the penalty of imprisonment for twelve (12) years of Prision Mayor, as minimum, to seventeen (17) years and four (4) months of Reclusion Temporal as maximum, with full credit for the entire period of preventive imprisonment provided he is qualified therefore (sic) according to Art. 29 of the Revised Penal Code. Civil liability not having been proved, the Court cannot grant the same and can only award nominal damages in the amount of Ten Thousand Pesos (P10,000.00) each to the private complainants who testified, namely, Carlos Canlas, Andres Villaflor and Francis Simpao.

SO ORDERED.[5]

Gonzales appealed, but the Court of Appeals affirmed the trial court's decision. In its Decision dated March 11, 2003, the Court of Appeals held that the denial of Gonzales cannot prevail over the positive identification of a witness. The Court of Appeals also held that the prosecution established circumstantial evidence sufficient to support the conviction of the accused beyond reasonable doubt. The Court of Appeals noted that although there were discrepancies in the testimony of Canlas and his affidavits, the discrepancies did not necessarily discredit him because affidavits taken ex parte are generally considered to be inferior to the testimony given in open court. Moreover, the Court of Appeals held that the alleged discrepancies pertain to minor matters which negated any suspicion that the testimony was perjured and rehearsed.

Gonzales moved for reconsideration but it was denied. Hence, petitioner now raises the following issues for this Court's consideration:

I

WHETHER THE HONORABLE COURT OF APPEALS ACTED CORRECTLY IN CONCLUDING THAT THE TRIAL COURT COMMITTED NO SERIOUS REVERSIBLE ERROR OR GRAVE ABUSE OF DISCRETION IN ITS APPLICATION OF THE PERTINENT RULE AND JURISPRUDENCE WHERE THERE ARE MATERIAL DISCREPANCIES OF THE PROSECUTION WITNESSES' STATEMENTS MADE IN THEIR AFFIDAVITS AND THOSE TESTIMONIES GIVEN ON THE WITNESS STAND;

II

WHETHER UPON THE AFORESTATED GIVEN SET OF FACTS, THE HONORABLE COURT OF APPEALS ACTED CORRECTLY IN AFFIRMING THE TRIAL COURT'S JUDGMENT OF CONVICTION FINDING PETITIONER GUILTY OF THE CHARGE OF ARSON.[6]

Stated simply, in our view, the main issue is whether the discrepancies in the affidavit and the court testimonies of a witness are sufficient to exculpate Gonzales of the crime of arson.

Petitioner argues that the trial court and the appellate court erred in giving credence to the testimony of prosecution witness Canlas. He claims that the sworn statements of Canlas before the investigating officer of the fire department on June 27, 1997 and before the city prosecutor of Quezon City on July 17, 1997, were inconsistent. Further, petitioner adds that Canlas had testified that he saw petitioner start the fire, but Canlas's testimony on this point was made only for the first time in court. Petitioner points out that in the two prior sworn statements of Canlas, he made no mention of seeing petitioner start the fire. This discrepancy is a material point that ought to cast doubt on the credibility of Canlas. He cites *People v. Salik Magonawal*,^[7] where the material discrepancies between the court testimony and prior statements of a witness at a preliminary investigation made the testimony incredible.

Petitioner seeks to discredit the testimonies of the other prosecution witnesses for being self-serving and ill-motivated. He avers that both the trial court and the appellate court failed to consider the Physical Science Report which stated that no flammable substance was found in the specimen ashes.

Finally, petitioner claims that although he had in the past threatened to burn the house, he never really meant it.

In its comment, the Office of the Solicitor General (OSG) maintains that the findings of the trial court and the Court of Appeals should stand because their findings are well supported by the records.

The OSG contends that the discrepancies in the testimonies of the witnesses and their sworn statements were not substantial to warrant a review of the findings of fact of the trial court. The OSG asserts that the testimony of Canlas in court clarified, corroborated and complemented his affidavit. Likewise, the testimony of the other prosecution witnesses corroborated Canlas's testimony.

The OSG rebuts petitioner's dependence on the case of *People v. Acosta*,^[8] where the court held that evidence that one did or did not do a certain thing at one time is not admissible to prove that he did or did not do the same or similar thing at another time, but, it may be received to prove a specific intent or knowledge, identity, plan, system, habit, custom or usage.

After thoroughly considering the submissions including testimonies and exhibits presented by the parties, we hold that the instant petition lacks merit.

The arson committed in the instant case involving an inhabited house or dwelling is covered by Section 3(2) of Presidential Decree No. 1613.^[9] In the prosecution for arson, proof of the crime charged is complete where the evidence establishes: (1) the corpus delicti, that is, a fire because of criminal agency; and (2) the identity of the defendant as the one responsible for the crime. In arson, the corpus delicti rule is satisfied by proof of the bare fact of the fire and of it having been intentionally caused. Even the uncorroborated testimony of a single eyewitness, if

credible, is enough to prove the corpus delicti and to warrant conviction.[10] When these are present, the only issue is the credibility of the witness. Whenever there is inconsistency between the affidavit and the testimony of a witness in court, the testimony commands greater weight considering that affidavits taken ex parte are inferior to testimony in court, the former being almost invariably incomplete and oftentimes inaccurate,[11] sometimes from partial suggestions and sometimes from want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected circumstances necessary for his accurate recollection of the subject.[12]

In this case, the eyewitness positively identified Gonzales as the culprit who caused the fire. Both the trial and appellate courts found the testimony of eyewitness Canlas credible. As a general rule, when the findings of both courts are in agreement, this Court will not reverse their findings of fact.

Furthermore, in our view, the findings of the Physical Science Report is a negative evidence and taken together with the bare denial of petitioner, supported only with testimonies of relatives, constitute inferior evidence as against the circumstantial evidence coupled with the positive identification of the accused as the perpetrator of the offense by a credible witness.

On the damages, we have consistently held that proof is required to determine the reasonable amount of damages that may be awarded to the victims of conflagration. As a rule, therefore, actual or compensatory damages must be proved and not merely alleged.[13] The records do not show concrete proof of the amount of actual damages suffered by each complaining witness. Thus, we cannot grant actual damages. However, we may award nominal and temperate damages.

The assessment of nominal damages is left to the discretion of the trial court according to the circumstances of the case. Generally, nominal damages by their nature are small sums fixed by the court without regard to the extent of the harm done to the injured party. However, it is generally held that a nominal damage is a substantial claim, if based upon the violation of a legal right; in such a case, the law presumes damage although actual or compensatory damages are not proven. In truth, nominal damages are damages in name only and not in fact, and are allowed, not as an equivalent of wrong inflicted, but simply in recognition of the existence of a technical injury.[14]

Now, temperate damages may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot from the nature of the case be proved with certainty.[15] Under the circumstances, we find it reasonable to award Canlas with P500,000 temperate damages, and to the other complaining witnesses, Simpao and Villaflor, the amount of P100,000 as temperate damages each. In addition, exemplary or corrective damages should be awarded as a way to emphasize that any future conduct of this nature is condemned so as to correct the anti-social behavior that is deleterious in its consequences.[16] Thus, Canlas and the other complaining witnesses, Simpao and Villaflor, should be awarded P50,000 each as exemplary damages.

Concerning the penalty to be imposed, Section 3(2) of P.D. No. 1613 prescribes the penalty of reclusion temporal to reclusion perpetua. But there being no mitigating or aggravating circumstances, the penalty should be imposed in its medium period. Applying the Indeterminate Sentence Law, the minimum prison term should be within the range of six (6) years and one (1) day to twelve (12) years of prision mayor and the maximum, twenty (20) years of reclusion temporal. Hence, the penalty imposed by the trial court on the accused ought to be modified correspondingly.

WHEREFORE, the Decision dated March 11, 2003 of the Court of Appeals sustaining the conviction by the RTC finding the accused-petitioner guilty of the crime of arson of an inhabited dwelling is **AFFIRMED** with **MODIFICATIONS**. He is hereby sentenced to the indeterminate penalty of imprisonment of nine (9) years and one (1) day of prision mayor as minimum, to twenty (20) years of reclusion temporal as maximum, with full

credit for the entire period of preventive imprisonment provided he is qualified therefor according to Article 29 of the Revised Penal Code.

As to his civil liability, he is ordered to pay temperate damages in the amount of P500,000 to Carlos C. Canlas, the owner of the burnt premises, and P100,000 each to Francis F. Simpao and Andres V. Villaflor, together with exemplary damages of P50,000 to each of them. No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 10-16. Penned by Associate Justice Amelita G. Tolentino with Associate Justices Eubulo G. Verzola and Sergio L. Pestaño concurring.

[2] Also referred to as Jun Gonzales in some parts of the records.

[3] CA rollo, pp. 5-7.

[4] Exhibit "10," folder of exhibits, p. 14.

[5] CA rollo, p. 24.

[6] Rollo, pp. 219-220.

[7] No. L-35783, March 12, 1975, 63 SCRA 106.

[8] G.R. No. 126351, February 18, 2000, 326 SCRA 49, 58.

[9] SEC. 3. Other Cases of Arson.-The penalty of Reclusion Temporal to Reclusion Perpetua shall be imposed if the property burned is any of the following:

- Any building used as offices of the government or any of its agencies;
- Any inhabited house or dwelling;
- Any industrial establishment, shipyard, oil well or mine shaft, platform or tunnel;
- Any plantation, farm, pasture land, growing crop, grain field, orchard, bamboo grove or forest;
- Any rice mill, sugar mill, cane mill or mill central; and
- Any railway or bus station, airport, wharf or warehouse.

[10] *People v. Oliva*, G.R. No. 122110, September 26, 2000, 341 SCRA 78, 87.

[11] *People v. Mamarion*, G.R. No. 137554, October 1, 2003, 412 SCRA 438, 465.

[12] *People v. Siguin*, G.R. No. 126517, November 24, 1998, 299 SCRA 124, 137, citing *People v. Marollano*, G.R. No. 105004, July 24, 1997, 276 SCRA 84, 102; See *People v. Andres*, G.R. No. 122735, September 25, 1998, 296 SCRA 318, 333-334.

[13] *People v. Soriano*, G.R. No. 142565, July 29, 2003, 407 SCRA 367, 379-380.

[14] T. Aquino, *TORTS AND DAMAGES* 876 (1st ed., 2001).

[15] *People v. Tagana*, G.R. No. 133027, March 4, 2004, 424 SCRA 620, 647.

[16] Supra note 13, at 380.

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