PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERNESTO DE GUZMAN Y ELEMENCIO, APPELLANT.

G.R. No. 169082. August 17, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Appellant Ernesto de Guzman y Elemencio was convicted for Murder by Branch 36 of the Regional Trial Court of Gapan City by Decision[1] of September 25, 2001, the dispositive portion of which reads:

> WHEREFORE, having found guilty of Murder beyond reasonable doubt, accused Ernesto de Guzman is sentenced to suffer the penalty of Reclusion Perpetua. And the said accused is further condemned to indemnify the heirs of Felicito Rodrigo the sum of Fifty Thousand Pesos (P50,000.00), for moral damages and another Fifty Thousand Pesos (P50,000.00) for actual damages.[2]

The accusatory portion of the Information filed against appellant reads:

x x x x

> That on or about the 14[th] day of June 1997, at around 1:00 o'clock [sic] in the morning, in Barangay San Vicente, Municipality of Gapan, Province of Nueva Ecija and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery and cruelty, by deliberately and inhumanly augmenting the suffering of the victim thru repeated stabs after the victim fell down and the use of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault and stab Felicito Rodrigo hitting him at the chest and different parts of his body causing his death, to the damage and prejudice of his heirs.

x x x x[3]

From the evidence for the prosecution, the following version is culled:

On June 14, 1997, around 1:00 a.m., while appellant was conversing with Felicito Rodrigo (the victim), Enrico Garcia (Garcia), Ferdinand Garces (Garces), Wilson Malgapo (Malgapo) and Orlando Navarro at Riverside, Barangay San Vicente, Gapan, Nueva Ecija, he told the victim "Eto, gusto mo bang hiramin ito?" immediately after which he stabbed him (the victim) with a kitchen knife.

The victim thereupon fled. Appellant ran after and caught up with the victim, however, and continued stabbing him.

As the victim fell on the ground facing down, appellant stabbed him three (3) more times at the back. Appellant thereafter left.

Garcia at once reported to the police. The policemen immediately proceeded to the crime scene and conducted an investigation, after which they repaired to the residence of appellant and arrested him at around 5:00 a.m. of the same day.

The autopsy conducted on the victim's body by Dr. Paquito Alarilla, Medico-Legal Officer and Rural Health Physician of Gapan, revealed the following findings:

Autopsy Findings

(1) Stab wound 1 inch x .2 inch above right nipple

(2) Stab wound 4 ½ inches x 1 inch anterior chest hitting the heart, liver and lung

(3) Stab wound ½ inch below the left scapula

(4) Stab wound ½ inch level of vertebral column

(5) Stab wound .1 inch below the right scapula

(6) Lacerated wound 1 ½ inch in length left forearm.

No other physical findings noted.

Cause of Death

Shock, stab wound of the chest, heart, liver and lung.

Severe Hemorrhage[4] (Underscoring supplied)

Dr. Alarilla opined that Stab Wound No. 2, which hit vital organs ½ the heart, liver and lung, could have caused the death of the victim in only about five (5) minutes. He opined too that it was possible that the victim was already dead when he sustained the succeeding stab wounds.[5]

Appellant, denying the accusation and of knowing the victim and prosecution witnesses Garcia and Garces, interposed alibi. He claimed that on the night of June 13, 1997, he was at his mother's house at Riverside where he slept at 8:00 p.m. and woke up before 5:00 a.m. the following morning of June 14, 1997.

Catalina de Guzman, appellant's mother, corroborated her son's above-stated claim.

Cecilia Flores (Cecilia), a resident also of Riverside, declared that on June 14, 1997, at 1:00 a.m., she passed by the house of one Ramon Sudla also in Riverside where she saw Garcia, Garces, Malgapo and one who was not familiar to her but who turned out to be the victim. At that time, she saw the victim and Garcia having an argument. After about a minute, she heard a commotion and she later learned that a person had been killed. On going back home, she did not see the body of the victim.

In convicting appellant, the trial court observed:

> x x x Since the house of accused Ernesto de Guzman where he claimed he was sleeping at the time the stabbing was taking place, is only about 15 meters away from the place of the incident, the alibi of Ernesto de Guzman must fail.
>
> The denial, too, of accused Ernesto de Guzman that he did not stab the victim Felicito Rodrigo was not properly corroborated or supported by clear and convincing evidence, and the same can not prevail over the positive assertions of the witnesses for the prosecution who were not moved by improper motives to falsely testify against the accused. As testified to by Ferdinand Garces, one of the prosecution witnesses, that he is even closer to Ernesto de Guzman than to Felicito Rodrigo.
>
> The accused also denied having known Ferdinand Garces and Enrico Garcia who testified for the prosecution in this case, his denial does not invite belief. Firstly, these witnesses for the prosecution are his barangay mates at the Riverside in San Vicente, Gapan, Nueva Ecija for a long time, and known to his witnesses including his

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> mother. And besides it is a negative and self-serving evidence, also unsupported by clear and convincing evidence, which can not be given greater evidentiary value over the testimony of credible witnesses who testified on affirmative matter. Even the testimonies of the witnesses for the accused do not clearly show that accused Ernesto de Guzman was not at the place of the stabbing incident when it is being committed.[6] (Emphasis and underscoring supplied)

Given the number and nature of the stab wounds and their location, the trial court found that, the intent to kill on the part of appellant was manifest. And, it found too that due to the suddenness of the stabbing by appellant, treachery attended the killing of the unarmed victim who could not have had a chance to defend himself, as even while the victim was staggering and helpless after the first stab wound was inflicted, appellant repeatedly stabbed him.[7]

On appeal, this Court, by Resolution of December 6, 2004, transferred the case to the Court of Appeals pursuant to People v. Mateo.[8]

The appellate court affirmed with modification the trial court's decision, by Decision[9] of April 28, 2005 the decretal portion of which reads:

> WHEREFORE, the appealed Decision of the Regional Trial Court of Gapan, Nueva Ecija (Branch 36), dated September 25, 2001, in Criminal Case No. 5084, finding appellant Ernesto de Guzman y Elemencio guilty of murder and sentencing him to suffer the penalty of reclusion perpetua, is AFFIRMED with the MODIFICATION that the actual damages awarded by the trial court is reduced to Twenty-Eight Thousand Five Hundred Pesos (P28,500.00), and an additional Fifty Thousand Pesos (P50,000.00) is awarded to the heirs of the victim by way of civil indemnity. The award of moral damages in the amount of Fifty Thousand Pesos (P50,000.00) is AFFIRMED. No pronouncement as to costs.[10] (Underscoring supplied)

In affirming appellant's conviction, the appellate court held that since appellant was positively identified by eyewitnesses Garcia and Garces as the one who killed the victim, proof of appellant's motive is no longer crucial.

Discrediting appellant's alibi, the appellate court held that the physical impossibility of his being at the scene of the crime was never substantiated, and the claim of defense witness Cecilia of not seeing appellant at the place of the incident assumes no greater probative value than the positive identification of appellant by witnesses Garcia and Garces.

As reflected in the dispositive portion of its Decision, the appellate court reduced from P50,000 to P28,500 the award of actual damages since only the latter amount was substantiated.

Appellant maintains that no proof of motive on his part was presented by the prosecution for him to kill the victim. And he maintains too that he was not at the locus criminis at the time of the incident.

Appellant goes on to argue that even assuming that he killed the victim, treachery should not be considered to qualify the offense to Murder.

The appeal fails.

For alibi, which has been held to be the weakest of all defenses, to prosper, the accused must not only prove that he was somewhere else when the crime was committed but must also show that it was physically impossible for him to have been at the scene of the crime.[11]

Appellant's residence where he claims to have been at the time of the commission of the crime and the locus criminis are both at Riverside, 15 meters apart as noted by the trial court, to thus preclude the physical impossibility for him to be at the latter.

Defense witness Cecilia's claim of not seeing appellant when she passed by the scene of the incident may not be seriously considered, given that she was not present during the actual killing.

Respecting the appreciation by the lower courts of the presence of treachery to qualify the offense to murder, the same is in order. The essence of treachery is the sudden and unexpected attack by the aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victim.[12]

In the case at bar, it was established that while the group was conversing, appellant suddenly stood up and after saying "Eto, gusto mo bang hiramin ito," he at once stabbed the unarmed victim and continued stabbing him even as the latter was already fleeing.

As to appellant's civil liability, the award by the appellate court of an additional amount of P50,000 as civil indemnity is in order, it being mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime.[13]

The reduction by the appellate court of the amount of actual damages to P28,500 representing funeral expenses is in order too, the same amount having been duly proven.

WHEREFORE, the assailed Decision of the Court of Appeals is AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

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[1] Records, pp. 219-239.

[2] Id. at 239.

[3] Id. at 1.

[4] Id. at 46.

[5] TSN, January 29, 1998, pp. 30, 32-33.

[6] Records, pp. 235-236.

[7] Id. at 236-237.

[8] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. This case modified the pertinent provision of the Rules of Court on direct appeals from the Regional Trial Court to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment. Said cases are now brought to the Court of Appeals for immediate review.

[9] Court of Appeals (CA) rollo, pp. 114-138; penned by Justice Conrado M. Vasquez, Jr. and concurred in by Justices Rebecca de Guia-Salvador and Aurora Santiago-Lagman.

[10] Id. at 137.

[11] People v. Acosta, Sr., 444 Phil. 385, 414 (2003).

[12] People v. Botona, G.R. No. 161291, September 27, 2004, 439 SCRA 294, 301.

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[13] People v. Sades, G.R. No. 171087, July 12, 2006, 494 SCRA 716, 728.

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