PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FABIAN SADES Y RODEL, APPELLANT.

G.R. NO. 171087. July 12, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On December 26, 2000, Bienvenido Fallarna Roga was shot at the doorway of his house. He instantly died of a mortal gunshot wound on the left side of his abdomen.

On January 26, 2001, Provincial Prosecutor Cesar A. Enriquez filed an Information[1] charging appellant Fabian Sades, the brother-in-law of the deceased, with the crime of Murder committed as follows:

> That on or about the 26th day of December, 2000, at 1:00 o'clock in the morning, more or less, in barangay Maragooc, municipality of Gloria, province of Oriental Mindoro, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with a decided purpose to kill, while armed with a short firearm, did then and there, wilfully, unlawfully and feloniously attack, assault and shoot therewith one BIENVENIDO FALLARNA ROGA, inflicting upon the latter mortal gunshot wounds in the different parts of the body which caused his instantaneous death.
>
> That in the commission of the crime the qualifying circumstances of treachery and evident premeditation are attendant.

Upon arraignment on March 16, 2001, appellant pleaded not guilty.[2]

During trial, Marilyn Roga (Marilyn), the wife of the deceased and the sister of appellant, testified in court, to wit:

> PROSECUTOR DELOS REYES:
>
> x x x x
>
> Q
>
> Where were you on December 26, 2000 at around 1:00 o'clock in the morning?
>
> A
>
> I was in our house, sir.
>
> Q
>
> Where is your house situated?
>
> A
>
> It [is] situated in Maragooc, sir.
>
> Q

Who were your companions in your house at that time?

A

I and my family, sir.

Q

Was your husband Bienvenido with you during said date and time?

A

Yes, sir.

x x x x

Q

May I proceed your Honor. Do you know why your husband died?

A

Yes, sir.

Q

What was the cause of death of your husband?

A

He was shot, sir.

Q

Who shot your husband?

A

Fabian Sades, sir.

Q

Why did you say that it was Fabian Sades who shot your husband?

A

Because I saw him, sir.

Q

Where did Fabian sho[o]t your husband?

A

In our house, sir.

Q

How far were you when the accused shot your husband?

A

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More than one arms length, sir.

Q

And how far was your husband from you when he was shot by Fabian Sades?

A

We were side by side with each other, sir.

Q

In what part of your house was your husband shot?

A

In the doorway, sir.

Q

Why were you in the doorway before your husband [was] shot?

A

Because we heard the barking of the dog, sir.

Q

Who was with you when you went out of the house to verify [xxx] the barking of the dog?

A

My husband and me, sir.

Q

This incident regarding the shooting of your husband took place at around 1:00 o'clock in the morning, d[id] you have electricity in your house at that time?

A

There was no electricity but we have [a] lamp, sir.

Q

What kind of lamp are you referring to?

A

Improvised lamp or moron, sir.

Q

How far was that lamp from the place where you saw the accused sho[o]t your husband?

A

More than one arms length, sir.

Q

Now, at the distance of one arms length away from the accused, will you please describe to us the gun used by

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the accused in shooting your husband?

A

It was a short firearm, sir.

Q

[xxx] how many times did the accused sho[o]t your husband?

A

Only on[c]e, sir.

Q

What happened to your husband after he was shot by the accused?

A

The person who shot my husband ran away, sir. "Tumakbo na po yoong taong bumaril sa asawa ko".

Q

And what happened to your husband?

A

He walked, sir.

Q

Towards what direction?

A

He walked towards the kitchen, sir.

Q

Was your husband able to reach your kitchen?

A

Yes, sir.

Q

What happened after your husband reached the kitchen?

A

He laid down, sir.

x x x x.[3] (Emphasis supplied)

On the other hand, appellant interposed the defense of alibi and testified thus:

ATTY. PUNZALAN

Q –

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Mr. Witness, where were you on December 26, 2000 at about 1:00 o'clock in the morning?

A –

I was in our house, sir.

Q –

What were you doing in your house at that time and date?

A –

I was sleeping, sir.

Q –

Before you sle[pt] who were with you in your house on December 26, 2000?

A –

My two children and the friends of my children and my wife.

Q –

Can you give us the names of these persons?

A –

Yes, sir.

Q –

Can you tell this Honorable Court?

A –

Norilyn Sades, Angelina Fuelda, Marilyn Sades and Esperanza Rotone.

Q –

No more?

A –

No more, sir.

Q –

On said date and time do you remember of any unusual incident that happened?

A –

Yes, sir.

Q –

What was that?

A –

Marilyn Sades came to our house and asked for help.

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Q –

What kind of help was Marilyn Sades asking for?

A –

She was asking for help because her husband was sh[o]t.

Q –

What time was that when she came to your house?

A –

Almost 1:00 o'clock in the morning.

Q –

So, you mean to say that Marilyn Sades Roga informed you that her husband was sh[o]t?

A –

Yes, sir.

Q –

When she came to your house what were you doing at that time?

A –

I was lying down, sir.

Q –

[Were] you awake or asleep?

A –

I was sleeping, sir.

Q –

How were you able to know that Marilyn Sades came to your house?

A –

I was awakened by my two children.

Q –

You said that Marilyn Sades was asking for help, f[o]r your help because her husband was sh[o]t, were you able to help her?

A –

I told her I cannot come because I was sick and I have sore eyes, and my eyes were swollen.

Q –

So, what did you do when you c[ould not] go with Marilyn Sades Roga to give your assistance?

A –

> I called my two son-in-law including their wives.
>
> x x x x.[4] (Emphasis supplied)

The trial court rendered judgment[5] finding appellant guilty of Murder, as follows:

> With all these consideration in mind, the Court finds the accused, FABIAN SADES y Rodel, GUILTY beyond reasonable doubtr (sic) of the crime of MURDER under Article 248 of the Revised Penal Code and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to indemnify the heirs of the victim the sum of P50,000.00 by way of civil indemnity for the death of Bienvenido Roga; to pay the offended party the amount of P10,000.00 for the coffin of her husband and other funeral services; and to pay the costs.
>
> The records will show that the herein accused has been detained since the time of his arrest on January 15, 2001. The Court grants him full credit for his preventive imprisonment, provided he abides by the rules and regulations imposed by Article 29 of the Revised Penal Code.
>
> SO ORDERED.[6]

Appellant assailed the decision of the trial court on the ground that the prosecution failed to prove his guilt beyond reasonable doubt. He claimed that Marilyn's testimony casts serious doubts as to her credibility specially her positive identification of him as the assailant. He also averred that her testimony was filled with inconsistencies.

In its Decision[7] dated October 27, 2005, the Court of Appeals found no compelling reason to depart from the trial court's observation that Marilyn was clear and categorical in identifying appellant as the assailant and that her testimony is sufficient to support a conviction. Likewise, it awarded moral damages to the private complainant in the amount of Fifty Thousand Pesos (P50,000.00).

The sole issue to be resolved in the instant appeal is whether the guilt of the appellant was proven beyond reasonable doubt.

We find no reason to depart from the findings of the trial court and the Court of Appeals. Findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts.[8] Unless it is shown that the trial court has overlooked, misunderstood or misappreciated certain facts and circumstances which if considered would have altered the outcome of the case, appellate courts are bound by the findings of facts of the trial court.[9]

We find no merit in the argument of appellant that the light coming from the "moron" was insufficient to illuminate the face of the assailant. It is settled that when conditions of visibility are favorable, and the witnesses do not appear to be biased, their assertion as to the identity of the malefactor should normally be accepted. Illumination produced by kerosene lamp or a flashlight is sufficient to allow identification of persons. Wicklamps, flashlights, even moonlight or starlight may, in proper situations be considered sufficient illumination, making the attack on the credibility of witnesses solely on that ground unmeritorious.[10]

Moreover, several circumstances show that Marilyn could not have missed identifying appellant as the assailant. Dra. Editha D. Hernandez established the proximity of the assailant when she stated that, when gunpowder is found around the wound, the firearm would have to be one meter away.[11] In addition, Marilyn testified that she was side by side with the victim when he was shot by appellant. Also, considering that appellant is her brother, it is not amiss, to state that he is no stranger to Marilyn. Thus, even if the "moron" lamp was about one meter away from the door, this circumstance combined with the proximity of the appellant and Marilyn's familiarity with him, would enable her to easily recognize him as the assailant. Consequently, we find no merit in the argument that it

was highly doubtful that Marilyn saw the person who shot her husband.

Anent the alleged inconsistencies in Marilyn's testimonies, i.e., when she pointed to the right side instead of the left side of her waist to indicate the gunshot wound of her husband, we find the same minor and inconsequential. It did not in any way lessen her credibility. Time and again we have held that minor variances in the details of a witness's account, more frequently than not, are badges of truth rather than indicia of falsehood and they often bolster the probative value of the testimony. Indeed, even the most candid witnesses oftentimes make mistakes and would fall into confused statements, and at times, far from eroding the effectiveness of the evidence, such lapses could instead constitute signs of veracity.[12] If it appears that the same witness has not willfully perverted the truth, as may be gleaned from the tenor of his testimony and the conclusion of the trial judge regarding his demeanor and behavior on the witness stand, his testimony on material points may be accepted.[13] Marilyn's mistake in pointing to the right side showed her candidness and the fact that she did not rehearse her answers for the trial.

Likewise, we do not agree with appellant that it was improbable for Marilyn and the deceased to stand side by side with a door two feet wide. Marilyn explained in her cross-examination that:

> ATTY. MANALO:
>
> x x x x
>
> Q
>
> You were standing side by side with your husband at the door at the time that your husband was shot?
>
> A
>
> Yes, sir.
>
> x x x x
>
> Q
>
> Where were you and your husband facing at the time when the shot was fired?
>
> A
>
> We were facing the door.
>
> Q
>
> Looking outside your house?
>
> A
>
> Yes, sir.
>
> Q
>
> And the person who shot your husband was inside?
>
> A
>
> He was inside the house, sir.
>
> Q
>
> So, you were facing the door looking out of your house when the person who shot your husband, shot him

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inside the house, is that your testimony?

A

Yes, sir, he was shot inside the house.[14] (Emphasis supplied)

Marilyn's testimony showed that she and her husband were inside the house when the latter was shot. She did not claim that she and the deceased were at the doorway that was two feet wide.

Furthermore, no ill-motive was imputed to Marilyn to fabricate the serious charges against appellant who is her brother. If appellant did not shoot the deceased, it is against human nature and the presumption of good faith that Marilyn would falsely testify against him.[15]

The defense of denial and alibi must fail in light of the clear and positive identification of appellant as the assailant of the deceased. The positive identification of the assailant, when categorical and consistent without any ill motive on the part of the prosecution witnesses, prevails over alibi and denial which are negative, self-serving and undeserving of weight in law.[16] The defense of denial, like alibi, is considered with suspicion and is always received with caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.[17]

The killing was attended with treachery. There is treachery when the means, methods, and forms of execution employed gave the person attacked no opportunity to defend himself or to retaliate; and such means, methods, and forms of execution were deliberately and consciously adopted by the accused without danger to his person.[18] What is decisive in an appreciation of treachery is that the execution of the attack made it impossible for the victim to defend himself.[19]

In the case at bar, appellant surreptitiously entered the house of the deceased at 1:00 o'clock in the morning. Awakened by the barking of the dog, the deceased and his wife went out of their bedroom to investigate. It was then, while the deceased was unarmed and standing side by side with his wife at the door facing the kitchen, that appellant shot him. The settled rule is that treachery can exist even if the attack is frontal if it is sudden and unexpected, giving the victim no opportunity to repel it or defend himself against such attack. What is decisive is that the execution of the attack, without the slightest provocation from the victim who is unarmed, made it impossible for the victim to defend himself or to retaliate.[20] Appellant shot the deceased while the latter was defenseless and totally unaware of the impending attack to his person. Thus, under paragraph 1 of Article 248 of the Revised Penal Code, the crime committed is murder.

The trial court correctly awarded the heirs of the victim, the sum of P50,000.00 by way of civil indemnity. This award is mandatory and is granted to the heirs of the victim without need of proof other than the commission of the crime.[21] Likewise, the award of P10,000.00 by way of actual damages is proper to cover the funeral expenses which was substantiated with receipts.

The Court of Appeals correctly awarded moral damages in the amount of P50,000.00,[22] in view of the finding that Marilyn suffered mental anguish and fear because of the incident.[23] In People v. Galvez,[24] this Court stressed that the purpose of the award of moral damages is not to enrich the heirs of the victim but to compensate them for the injuries to their feelings.

WHEREFORE, the Decision of the Court of Appeals dated October 27, 2005 in CA-G.R. CR-H.C. No. 00225, modifying the Decision of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 41 in Criminal Case No. P-6275, finding appellant Fabian Sades y Rodel GUILTY beyond reasonable doubt of the crime of murder, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the heirs of Bienvenido Fallarna Roga the amounts of P50,000.00 as civil indemnity, P10,000.00 as actual damages, and

P50,000.00 as moral damages, is AFFIRMED.

SO ORDERED.

Panganiban, C.J., (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Records, p. 1.

[2] Id. at 21.

[3] TSN, October 26, 2001, pp. 3-6.

[4] TSN, July 26, 2002, pp. 2-3.

[5] Rollo, pp. 13-25. Penned by Judge Normelito J. Ballocanag.

[6] Id. at 25.

[7] Id. at 146-154. Penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Delilah Vidallon-Magtolis and Fernanda Lampas Peralta.

[8] People v. Suarez, G.R. Nos. 153573-76, April 15, 2005, 456 SCRA 333, 344-345.

[9] People v. Delos Santos, 446 Phil. 576, 587-588 (2003).

[10] People v. Mansueto, 391 Phil. 611, 628 (2000).

[11] TSN, Dra. Editha D. Hernandez, July 12, 2001, p. 6.

[12] People v. Ortiz, 413 Phil. 592, 602 (2001).

[13] People v. Appegu, 429 Phil. 467, 478 (2002).

[14] TSN, October 26, 2001, pp. 11-12.

[15] People v. Lindo, 442 Phil. 609, 627 (2002).

[16] People v. Loterono, 440 Phil. 268, 280 (2002).

[17] People v. Aliben, 446 Phil. 349, 383 (2003).

[18] People v. Ave, 439 Phil. 829, 853 (2002).

[19] People v. Demate, G.R. Nos. 132310 & 143968-69, January 20, 2004, 420 SCRA 229, 242.

[20] People v. Valdez, G.R. No. 127663, March 11, 1999, 304 SCRA 611, 626.

[21] Nueva España v. People, G.R. No. 163351, June 21, 2005, 460 SCRA 547, 555-556.

[22] ART. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

[23] Records, p. 12.

[24] G.R. No. 130397, January 17, 2002, 374 SCRA 10, 21.

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