NESTOR B. DECASA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES RESPONDENTS.

G.R. NO. 172184. July 10, 2007

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-172184/

CHICO-NAZARIO, J.:

In this Petition for Certiorari under Rule 65 of the Revised Rules of Court,[1] petitioner Nestor B. Decasa prays for the reversal of the Decision dated 26 April 2005[2] and Resolution dated 23 February 2006[3] of the Court of Appeals in CA-G.R. CR No. 23072, affirming with modification the Decision dated 21 August 1998[4] of the Regional Trial Court (RTC), Branch 50, Loay, Bohol, in Criminal Case No. 8006, finding petitioner guilty beyond reasonable doubt of the crime of homicide.

On 31 July 1995, petitioner was indicted in an Information for homicide allegedly committed as follows:

> That on or about 29[th] day of August, 1992, in the municipality of Bilar, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously assault, attack, strike and/or stab with the use of a sharp-bladed, sharp-pointed weapon one Teodoro Luzano thereby inflicting injuries on the vital parts of the victim's body causing his untimely death; to the damage and prejudice of the heirs of the victim in the amount to be proved during the trial.
>
> Acts committed contrary to the provisions of Article 249 of the Revised Penal Code as amended.[5]

When arraigned on 22 December 1992, petitioner pleaded "Not Guilty" to the charge. Thereafter, trial on the merits ensued.

The testimonies of all the prosecution witnesses[6] and the first five witnesses for the defense[7] were heard before Judge Achilles Melicor (Judge Melicor) of RTC, Branch 4, Tagbilaran City. Subsequently, the instant case was re-raffled to RTC, Branch 50, Loay, Bohol, presided by Judge Dionisio R. Calibo Jr. (Judge Calibo) after Judge Melicor inhibited himself from deciding the same case. Thus, only the testimony of petitioner was heard by Judge Calibo.[8]

The factual antecedents as viewed by the prosecution are summarized in the Comment dated 19 July 2006 of the Office of the Solicitor General,[9] to wit:

> - On August 29, 1992, at around 8 o'clock in the evening, Rogelio Boco was gathering tuba from a coconut tree located near a canal at Riverside, Bilar, Bohol, when he chanced upon petitioner Nestor Decasa and Teodoro Luzano arguing heatedly about water [for their respective ricefields].
>
> - From a distance of about five (5) meters and as a bright moon illuminated the area, Rogelio Boco saw petitioner Nestor Decasa hack Teodoro at the back portion of the latter's neck and again on the forehead near the eyebrow. Teodoro fell down.
>
> - After the incident, Rogelio went home. Early the next morning, he went to the same place to gather tuba.

There, he saw Teodoro's corpse lying near a coconut tree.

- Rogelio summoned his neighbors to witness what he saw. He was investigated and thereafter executed an affidavit before the MCTC of Bilar, Bohol.

- Dr. Maria Nenita Tumanda, Rural Health Physician of Batuan, Bohol conducted a post-mortem examination on the body of Teodoro Luzano and issued a Post-Mortem Report (Exhibit A) and Death Certificate (Exhibit B) with the following findings:

"The cause of the death was hypovolemic shock secondary to hemorrhage due to multiple wounds on the head, chest, and extremities, which could have been caused by a sharp-edged and pointed instrument, like a bolo. The immediate cause of death was cardiopulmonary arrest."

Petitioner vehemently denied the foregoing accusations. He disclaimed any liability for the death of Teodoro Luzano (Teodoro). The compendium of his defenses and arguments is contained in the RTC Decision dated 21 August 1998, viz:

The last witness for the defense was accused Nestor Decasa himself, 30 years old, college level, and a resident of Riverside, Bilar, Bohol. He testified that he executed a counter affidavit in this case.

He has been staying in the house of his parents-in-law, Bernardino and Francisca Llano Macalolot after getting married to their daughter Luz on May 16, 1991. Before he got married, he resided at Quezon, Bilar which is more than one kilometer away from Riverside, Bilar.

It is not true that he killed Teodoro Luzano. In the afternoon of August 29, 1992, he was making hollow blocks together with his younger brother, Domingo, at the site where his house was supposed to be constructed, about 100 meters from the house of his parents-in-law. They worked up to 5:00 o'clock in the afternoon, after which they went home. At around 6:30 in the evening, he ate his supper together with his parents-in-law, his wife, his two brothers-in-law, and Sally Canono, an (sic) herbal doctor. After eating supper, he and his wife Luz went inside their bedroom and prayed. They slept at 10:00 o'clock in the evening and woke up at 4:20 o'clock dawn to listen to the radio program of Rev. Al Galo until 5:00 o'clock in the morning.

Throughout the entire night of August 29, 1992, there was no time that he went out of his bedroom. After the radio program of Rev. Al Galo, he went back to his work at the same construction site. He started working on the hollow blocks together with his brother at 6:00 o'clock in the early morning of August 30, 1992 up to 7:30 in the morning when they ate their breakfast. After eating, he went back to work. While working again, he heard news that Teodoro Luzano was killed. Upon hearing the news, they took a look at the dead body and then went back to work. There were many people when they viewed the cadaver of the late Teodoro Luzano. On that same day, Sunday, August 30, 1992, his brother-in-law Jaime was arrested.

Rogelio Boco's testimony that in the evening of August 29, 1992 he heard him and the late Teodoro Luzano quarrelling over the source of water for their respective ricefields, is not true, because on that evening of August 29, 1992, he was at home. He never had any quarrel or misunderstanding with Teodoro because they do not have the same source of water.

He is a tenant of a ricefield owned by the late Judge Espiritu which source of water is called "Bogwak." The source of water of Teodoro's ricefield is the Logarita Spring. Logarita Spring and Bogwak are two different sources of water. It is Rogelio Boco who has a ricefield near that of Teodoro which also gets water from Logarita Spring. Rogelio is also tilling another ricefield (owned by somebody from Dauis) which is near his ricefield and has its source of water from Bogwak. It is not true that there was a time before August 30, 1992, that he uttered threatening words against the person Teodoro Luzano. It is also not true that the moon on August 29, 1992 was full because a calendar for August 1992 (Exhibit "3") shows that August 28, 1992, onwards, is not a full moon.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> As a farmer, he worked on a piece of land located at Riverside, Bilar, Bohol. He worked on that piece of land even before he got married in 1991 and while he was still residing at Quezon, Bilar. He was also working on a farmland in Quezon, Bilar, but he stopped working on that land sometime in 1990 when he was about to get married. The land which he is working on at Riverside is owned by the late Judge Ricardo Espiritu. Before he went to Maramag, Bukidnon, he was able to work on that land already, and when he came back to Bohol, he resumed working on the same land. While in Maramag, it was his grandfather who worked on it. He inherited the tenancy.
>
> The land he is working on at Riverside is about one-half hectare. The water source which fed the ricefield is Bogwak. The water source called Bogwak is a certain area on the ground where water comes out from underneath. However, Bogwak is not the only source of water in that area. There are many ricefields in Barangay Riverside which are cultivated by other persons, and which are adjacent to each other. These fields are irrigated by the Logarita Spring which comes from the forest. Bogwak is about 500 meters away from Logarita.[10]

After consideration of the respective evidence of the prosecution and defense in a trial proper, the RTC rendered a Decision on 21 August 1998, convicting the petitioner of homicide under Article 249 of the Revised Penal Code. The RTC gave more credence to the prosecution's version of the facts as narrated by eyewitness Rogelio M. Boco (Rogelio). Rogelio testified that on 29 August 1992, at a distance of five meters, he heard the petitioner and Teodoro arguing about the source of water for their respective ricefields and then saw petitioner subsequently hacking Teodoro. The RTC also affirmed the corroborative testimonies of five other prosecution witnesses namely, Dr. Maria Nenita D. Tumanda (Dr. Tumanda), Francisca O. Boco, Alona L. Dordas (Alona), Josefina M. Luzano (Josefina) and Fermin Tabel (Fermin). The gist of their testimonies is as follows:

Dr. Tumanda examined the corpse of Teodoro. According to her findings, Teodoro's death was caused by "hypovolemic shock secondary to hemorrhage due to multiple wounds on the head, chest, and extremities, which could have been caused by a sharp-edged and pointed instrument, like a bolo. The immediate cause of death was cardio-pulmonary arrest." Francisca Boco is the wife of Rogelio. She testified that on 29 August 1992, at about 7:30 in the evening, she passed by the house of petitioner's parents-in-law where the petitioner was also staying. She saw the petitioner go out of the said house and proceed towards the water-gate/irrigation opening which was four to five meters from the place where the incident took place. When she went home at about 9:30 in the evening, she again saw the petitioner coming from the ricefield and walking fast towards his parents-in-law's house.

Alona was the daughter of Teodoro. On 29 August 1992, at about 7:30 in the evening, she and her eight-year-old brother delivered food to Teodoro at the latter's ricefield located at Riverside, Bilar, Bohol. While she and her brother were at the ricefield, petitioner passed by. They greeted him "good evening" but the petitioner ignored them. Afterwards, Teodoro told her and her younger brother to go home because he would guard the source of water in the irrigation opening as the owners of the other ricefields might steal the water by opening the water-gate to allow the water to pass through. Alona also recalled that there was one time when the petitioner passed by their house and told their mother, Josefina, to advice the hard-headed Teodoro. Petitioner warned them that sooner or later he would crush Teodoro's head. Josefina was the wife of Teodoro. She alleged that on 7 July 1992, petitioner and Teodoro had an altercation regarding the water for their respective ricefields and that in the first week of August 1992, petitioner passed by their house and told her to restrain Teodoro from being hard-headed; otherwise he would break his head.

In his rebuttal testimony, Fermin claimed that he used to work on a riceland at Riverside, Biliran, owned by a certain Juan Item; that in 1992, Bernardino Macalolot (petitioner's father-in-law) and petitioner began working on the said riceland; and that the said riceland and the riceland of Teodoro had the same source of water called

"Bogwak."

Pathetically, the RTC did not find worthy the testimonies of the defense witnesses namely, petitioner; Municipal Circuit Trial Court (MCTC)-Sevilla, Bohol, Judge Felina D. Vaño (Judge Vaño); Luz Decasa (Luz); Jaime Macalolot (Jaime); Francisca Macalolot, Aquilino Decasa (Aquilino); and Loreto Quilas, Sr. (Loreto). Their collective court statements are as follows:

Petitioner insists that he has nothing to do with the death of Teodoro. Petitioner asserts that he had dinner with his wife, Luz, and the latter's relatives on the evening of 29 August 1992; that he and Luz listened to a radio program and thereafter prayed and slept; and that he did not go out of the house throughout the entire night of 29 August 1992. Judge Vaño was the administering officer for the affidavit executed by Rogelio. She averred that she had thoroughly examined Rogelio as to whether the latter clearly understood all his statements in the said affidavit. Luz, Jaime (petitioner's brother-in-law), and Francisca (petitioner's mother-in-law) testified, in essence, that petitioner did not kill Teodoro; that they had dinner with the petitioner on the evening of 29 August 1992; that after dinner, petitioner and Luz listened to a radio program and thereafter prayed and slept; that they did not see petitioner go out of the house throughout the entire night of 29 August 1992; that there was no feud between petitioner and Teodoro; that Rogelio and Teodoro had the same source of water for their respective ricefields; that Rogelio and Teodoro had a quarrel regarding such source of water; and by reason of the said conflict, Rogelio filed a complaint against petitioner in the barangay hall, a complaint which was, however, subsequently settled.

Aquilino (uncle of petitioner) testified that Rogelio had a ricefield which was very near the ricefield of Teodoro, and that these ricefields had the same source of water called "Logarita." Loreto was a barangay councilman in Riverside, Biliran. He claimed that on 10 June 1992, he settled a dispute between petitioner and Rogelio as regards their source of water for their respective ricefields. He also presented a document evincing such settlement.

The RTC completely rejected petitioner's defense of alibi and held that overall, the testimonies of the prosecution witnesses pointed to the accused as the guilty party. In closing, the RTC held:

> WHEREFORE, premises considered, the court finds accused Nestor Decasa alias Toto guilty beyond reasonable doubt of the crime of Homicide and, in the absence of mitigating or aggravating circumstances, hereby sentences him to an indeterminate penalty of EIGHT YEARS AND ONE DAY TO SEVENTEEN YEARS and FOUR MONTHS. The accused is further ordered to indemnify the heirs of the victim Fifty Thousand (P50,000.00) Pesos as death indemnity and Twenty Five Thousand (P25,000.00) Pesos in actual damages.[11]

Aggrieved, the petitioner filed an appeal with the Court of Appeals. On 26 April 2005, the appellate court promulgated its Decision affirming with modification the assailed RTC Decision.[12] The modification pertains to petitioner's period of imprisonment as provided under the Indeterminate Sentence Law. The decretal portion of the appellate court's decision reads:

> WHEREFORE, the instant Appeal is hereby DISMISSED, and the assailed Decision of the Regional Trial Court, 7[th] Judicial Region, Branch 50, Loay, Bohol, in Criminal Case No. 8006 is AFFIRMED with modification as follows: sentencing accused to suffer the indeterminate penalty of Six (6) Years and One (1) Day of Prision Mayor, as minimum, to Fourteen (14) Years Eight (8) Months and One (1) Day of Reclusion Temporal, as maximum.[13]

Petitioner filed a Motion for Reconsideration[14] of the Decision of the Court of Appeals but this was denied by the appellate court in its Resolution dated 23 February 2006[15] for lack of merit.

On 20 March 2006, petitioner lodged the instant petition before us on the following grounds:

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT DECLARING THAT THE GUILT OF THE HEREIN PETITIONER OF THE CRIME CHARGED WAS NOT ESTABLISHED BEYOND REASONABLE DOUBT.

II.

THE HONORABLE COURT OF APPEALS LIKEWISE GRAVELY ERRED IN NOT DECLARING THAT THE PROSECUTION FAILED TO OVERCOME BY THEIR EVIDENCE THE CONSTITUTIONAL PRESUMPTION OF THE PETITIONER'S INNOCENCE.

III.

THE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE PETITIONER BEYOND REASONABLE DOUBT DESPITE THE PRESENCE OF CLEAR FACTS AND CIRCUMSTANCES SUPPORTED BY EVIDENCE WHICH BRING FORTH GRAVE DOUBTS AS TO THE VERACITY AND CREDIBILITY OF PROSECUTION'S EVIDENCE, BOTH TESTIMONIAL AND DOCUMENTARY.

IV.

THE COURT OF APPEALS GRAVELY ERRED IN CONVICTING THE PETITIONER INSPITE AND DESPITE THE FACT THAT THE EVIDENCE OF THE PROSECUTION IS UTTERLY INSUFFICIENT TO SUSTAIN A CONVICTION BEYOND REASONABLE DOUBT.[16]

In sum, petitioner enucleates that the Court of Appeals erred in convicting him despite the utter absence of evidence to sustain his conviction beyond reasonable doubt.

Petitioner argues that the RTC and the Court of Appeals committed grave abuse of discretion in giving credence to the testimony of eyewitness Rogelio since there were grave and irreconcilable inconsistencies in the latter's affidavit and court testimony. According to petitioner, when Rogelio executed his affidavit and was subjected to a preliminary examination two weeks after the incident, he never mentioned therein that he actually saw the hacking of Teodoro by petitioner. It was only during the trial on the merits of the instant case that Rogelio for the first time testified that he personally witnessed the hacking of Teodoro by petitioner. In fact, the RTC narrated in its assailed decision the following set of facts: (1) Rogelio did not mention in his affidavit that he saw the hacking of Teodoro by petitioner; (2) when Rogelio executed and swore to his affidavit before Judge Vaño of the MCTC of Bilar, the latter read to Rogelio the contents of his affidavit in the Visayan dialect; (3) Rogelio understood the contents of his affidavit and affixed his signature thereon; (4) the said affidavit contains the entire story of what Rogelio witnessed on 29 August 1992; and (5) from all indications, Rogelio understood the questions of Judge Vaño which were translated into the Visayan dialect.[17]

Petitioner contends that despite the aforementioned narration of facts made by the RTC, the trial court and the Court of Appeals still chose to believe the testimony of Rogelio.

Petitioner further asserts that the RTC and the Court of Appeals failed to consider the ill motive which Rogelio harbored against petitioner and Teodoro; that the assailed decisions of the RTC and the Court of Appeals are described in legal circles as "speculative conviction"; that Rogelio"s testimony that he does not usually gather tuba at nighttime is inconsistent with his own testimony that he was gathering tuba on the night he witnessed the incident; that the RTC erred in finding that "Rogelio did not immediately report the incident to the police because he had already informed Josefina, wife of Teodoro, and it was Josefina who informed the police," as there was no evidence showing that she made such report to the police; that Rogelio's testimony that the first person he informed about the incident was his neighbor, Jesus Quimpan (Jesus), has no basis since Jesus was never

presented as a witness by the prosecution; that Rogelio made a false testimony when he narrated that he clearly saw the incident because of the moonlight; that the calendar year for August 1992 shows that the full moon was on 13 August, the last quarter was on 21 August, and new moon on 28 August 1992; that the RTC found that Rogelio had merely "heard" the quarrel between petitioner and Teodoro, and that he had not actually seen the hacking; that the jurisprudence which states that "the trial court's findings are entitled to great respect since it had the opportunity to observe the demeanor of witnesses and, therefore, was in a better position to appraise their credibility' does not apply in the present case on the ground that the bulk of the evidence for the prosecution, including the entire testimony of Rogelio, was "not personally heard" by Judge Calibo; that Judge Calibo used to be a subordinate of the fiscal in charge of the instant case and who had engaged the defense counsel in heated arguments during the trial; and that the aforesaid circumstance shows the biased nature of the assailed RTC decision.[18]

The contentions are devoid of merit.

When Rogelio was asked during the trial why it is not reflected in his affidavit that he actually saw petitioner hack Teodoro, he explained that he believed that everything he said was already included in his affidavit, including that part wherein he actually saw petitioner hack Teodoro, viz:

> He [Rogelio] was investigated by the police anent this case at the Municipal Hall of Bilar where he also executed an affidavit (Exhibit "1" for the defense). It was Fred Pangan, Acting Chief of Police, who took his affidavit, Fred Pangan asked him questions relative to the incident, and he told him everything that he saw. However, when he was asked to explain why it is not reflected in his affidavit that he actually saw the accused hack Teodoro Luzano, he answered that he believed that everything he said were already included in his affidavit, including that part wherein he actually saw Nestor hack Teodoro.[19]

As can be gleaned from the foregoing, it was Rogelio's honest belief that he was able to state in his affidavit the fact that he saw petitioner hack Teodoro. Rogelio's elucidation is understandable and does not affect his credibility since witnesses cannot be expected to give a flawless testimony all the time. This is even more true if they are called to testify on details of a harrowing and frightening event which unfolded before their eyes.[20] What is decisive and significant is that Rogelio saw the petitioner hack Teodoro and that he testified on such fact during the trial.

More importantly, this Court had consistently ruled that the alleged inconsistencies between the testimony of a witness in open court and his sworn statement before the investigators are not fatal defects to justify a reversal of judgment. Such discrepancies do not necessarily discredit the witness since ex-parte affidavits are almost always incomplete. A sworn statement or an affidavit does purport to contain a complete compendium of the details of the event narrated by the affiant. Sworn statements taken ex parte are generally considered to be inferior to the testimony given in open court.[21]

It should also be stressed that the testimony of Rogelio is consistent with the findings of Dr. Tumanda. Rogelio narrated that petitioner hacked Teodoro on the head with a bolo-like instrument.[22] Dr. Tumanda declared that the multiple injuries sustained by Teodoro on the head were caused by a sharp-edged and pointed instrument like a bolo.[23] This circumstance bolsters the credibility of Rogelio's testimony.[24]

Petitioner's rantings on the supposed ill motive which Rogelio had against him deserve scant consideration. The existence of a grudge does not automatically render the testimony of a witness false and unreliable.[25] Further, it should be noted that the conflict between petitioner and Rogelio was already settled before their Barangay Council.[26] Motive is essential for conviction when there is doubt as to the identity of the culprit.[27] In the instant case, the imputation of ill motive is already inconsequential as Rogelio personally witnessed the hacking

of Teodoro by petitioner.

The inconsistencies in the testimony of Rogelio cited by petitioner refer to minor and insignificant details which do not impair the credibility of Rogelio as a witness. Rogelio did not categorically testify that there was never an instance when he gathered tuba at nighttime. He merely stated that he does not usually gather tuba at nighttime;[28] thus, he does not preclude the possibility that, on the day of the incident, Rogelio opted to gather tuba at night rather than during daytime. Besides, what is vital is that Rogelio specifically testified in court that he was gathering tuba on the night he saw the petitioner hack Teodoro.

In support of his contention that Rogelio did not clearly see the hacking incident as there was no moonlight at that time, petitioner presented the calendar year for August 1992 which shows that the full moon was on 13 August, the last quarter was on 21 August and the new moon on 28 August.[29] This circumstance does not carry much weight since Rogelio was merely five meters away from the petitioner and Teodoro when he heard the two arguing and then saw petitioner subsequently hacking Teodoro. Moreover, Rogelio was very familiar with the physical features[30] and voices of petitioner and Teodoro because the petitioner's wife is his relative, and both petitioner and Teodoro also reside in Riverside, Biliran.

Indeed, the discrepancies in Rogelio's testimony do not damage the essential integrity of the prosecution's evidence in its material whole. Instead, the discrepancies only erase suspicion that the testimony was rehearsed or concocted. These honest inconsistencies serve to strengthen rather than destroy Rogelio's credibility.[31]

It may be true that no evidence was adduced in support of Rogelio's testimony that it was Josefina who reported the incident to the police and that Jesus, his neighbor, was the first person he informed about the incident. However, proofs of these allegations are not necessary in view of the candid and straightforward testimony of Rogelio, as corroborated by five other prosecution witnesses. Truly, an accused may be convicted on the sole basis of the positive and credible testimony of an eyewitness.[32]

Petitioner draws attention to the fact that Judge Calibo did not hear the bulk of the prosecution's evidence, including the entire testimony of Rogelio, and hence, did not have the opportunity to observe the demeanor of the witness.

It is not unusual for a judge who did not wholly try a case to decide it on the basis of the records on hand after the trial judge who had heard almost entirely the testimony of the witnesses died, resigned, retired, transferred, and so forth. Relative thereto, we have held in several cases that the fact that the judge who heard the evidence is not the one who rendered the judgment; and that for the same reason, the latter did not have the opportunity to observe the demeanor of the witnesses during the trial but merely relied on the records of the case does not render the judgment erroneous.[33] Even though the judge who penned the decision was not the judge who heard the testimonies of the witnesses, such is not enough reason to overturn the findings of fact of the trial court on the credibility of witnesses.[34] It may be true that the trial judge who conducted the hearing would be in a better position to ascertain the truth or falsity of the testimonies of the witnesses, but it does not necessarily follow that a judge who was not present during the trial cannot render a valid and just decision.[35] The efficacy of a decision is not necessarily impaired by the fact that its writer only took over from a colleague who had earlier presided at the trial.[36] That a judge did not hear a case does not necessarily render him less competent in assessing the credibility of witnesses. He can rely on the transcripts of stenographic notes of their testimony and calibrate them in accordance with their conformity to common experience, knowledge and observation of ordinary men. Such reliance does not violate substantive and procedural due process of law.[37]

As is herein, Judge Calibo did not merely rely on the records of the case, such as transcripts of stenographic notes and relevant documents, in rendering his decision. In addition thereto, he also conducted an ocular inspection of

the scene of the crime in order to evaluate the veracity of Rogelio's testimony.[38]

Petitioner tries to impart that Judge Calibo was biased in rendering the assailed RTC Decision, since he used to be a subordinate of the fiscal in charge of the instant case and had heated arguments with the defense counsel during the trial.

Mere imputation of bias and partiality against a judge is not enough, since bias and partiality can never be presumed.[39] There was no evidence showing that the fiscal in the present case had unduly influenced Judge Calibo in convicting petitioner for homicide. In the absence of such proof, petitioner's bare assertion cannot overturn the presumption of regularity in the performance by Judge Calibo of his official duty.[40]

Petitioner also tries to discredit the court testimonies of Francisca Boco, Josefina (Teodoro's wife), and Alona (Teodoro's daughter). According to petitioner, the testimonies of Francisca Boco and Josefina are mere afterthoughts, for they never executed any affidavits in connection with the instant case. As regards Alona, her testimony was practically nil, considering that there are some facts which she "deliberately" omitted in her affidavit.

We reject these protestations.

The testimonies of Francisca and Josefina were duly offered in court by the prosecution as evidence. Francisca and Josefina also swore under oath before making their court statements. Moreover, their testimonies corroborated Rogelio's testimony on material and substantial points.[41] Indeed, their testimonies are not mere afterthoughts and the execution of affidavits on their part is unnecessary in light of their personal testimonies before the trial court.

As to Alona, it appears that, really, she omitted some facts in her affidavit. However, this does not necessarily negate her testimony since she was able to satisfactorily explain the reason for such omission, thus:

> Upon cross-examination, she [Alona] declared that she executed an affidavit in connection with this case. However, there are some facts which she deliberately omitted in her affidavit. The fact that Nestor passed by their house and forewarned her mother to stop her father otherwise he would crush his head, and the fact that when accused passed by, she said "Good evening" but the accused did not answer, were not mentioned in her affidavit because during the preliminary examination, and when her affidavit was taken, she was still in the state of sorrow and her mindset was still unstable.[42] (Emphasis ours.)

The fact that Josefina and Alona were the wife and daughter, respectively, of Teodoro, makes their testimonies more credible, as it would be unnatural for a relative interested in vindicating a crime done to their family to accuse somebody other than the real culprit.[43]

In an effort to exonerate himself from any liability in the killing of Teodoro, petitioner interposed the defense of denial and alibi. He alleges that he and his wife had been staying/residing in the house of his wife's parents at Riverside, Bilar, Bohol, on the night of the incident. On 29 August 1992, he and his wife went to their bedroom after eating their supper at about 6:30 in the evening. They slept at about 10:00 in the evening and woke up at 4:20 in the morning of the next day. Petitioner insists that he never went out of the bedroom throughout the entire night of 29 August 1992. As such, it was impossible for him to commit the crime charged.

Denial is inherently a weak defense as it is negative and self-serving. It cannot prevail over the positive identification and testimonies of witnesses unless buttressed by strong evidence of non-culpability. Corollarily, alibi is the weakest of all defenses for it is easy to contrive and difficult to disprove. For alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

time of its commission.[44]

Thus, even assuming that petitioner was sleeping in their bedroom throughout the entire night of 29 August 1992, it was not physically impossible for him to be at the crime scene which was in a canal near Riverside, Bilar, Bohol, on the night of the incident. The distance between the house of his parents-in-law where he slept, and the canal where the hacking took place, is merely 100 meters.[45] Obviously, he could easily reach the canal at any time to perpetrate the crime charged.

As the petitioner failed to substantiate his defenses of denial and alibi, the positive and credible testimonies of Rogelio and the rest of the prosecution witnesses must prevail.

It must also be emphasized that when the credibility of a witness is in issue, the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect.[46] This is more true if such findings were affirmed by the appellate court, since it is settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court.[47] In the case before us, we find no compelling reason to depart from the RTC's finding of guilt of petitioner for homicide as affirmed by the Court of Appeals, as these findings are supported by the evidence on record.

With regard to the damages, we sustain the award of civil indemnity in the amount of P50,000.00 consistent with prevailing jurisprudence.[48] However, the award of actual damages in the amount of P25,000.00 is unwarranted since the heirs of Teodoro failed to present funeral and burial receipts.[49] Nevertheless, we have held in several cases that temperate damages in the amount of P25,000.00 shall be awarded where no documentary evidence of actual damages was presented in the trial court because it is reasonable to presume that, when death occurs, the family of the victim necessarily incurs expenses for his wake and funeral.[50]
WHEREFORE, the Decision and Resolution of the Court of Appeals dated 26 April 2005 and 23 February 2006, respectively, in CA-G.R. CR No. 23072 are hereby AFFIRMED WITH MODIFICATION. Accordingly, in lieu of the actual damages awarded by the RTC and the Court of Appeals, we hereby award temperate damages in the amount of P25,000.00 in favor of the heirs of Teodoro. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), and Austria-Martinez, JJ., concur.
Nachura, J., no part. Filed pleading as Sol Gen.

---

[1] Rollo, pp. 3-30.

[2] Penned by Associate Justice Vicente L. Yap with Associate Justices Isaias P. Dicdican and Enrico A. Lanzanas concurring; id. at 53-59.

[3] Id. at 74-75.

[4] Id. at 31-52.

[5] Id. at 31.

[6] Rogelio Boco, Dr. Maria Nenita Tumanda, Francisca Boco, Alona L. Dordas and Josefina M. Luzano; id. at 54.

[7] MCTC-Bilar, Judge Felina D. Vaño, Luz M. Decasa, Jaime L Macalolot, Francisca L. Macalolot and Aquilino S. Decasa; id.

[8] Id. at 31-32.

[9] Id. at 130-141.

[10] Id. at 46-48.

[11] Id. at 52.

[12] Id. at 58.

[13] Id.

[14] Id. at 61-71.

[15] Id. at 74-75.

[16] Id. at 6-7.

[17] Id. at 9-13.

[18] Id. at 15-16.

[19] Id. at 33.

[20] People v. Pateo, G.R. No. 156786, 3 June 2004, 430 SCRA 609, 615.

[21] People v. Beltran, Jr., G.R. No. 168051, 27 September 2006, 503 SCRA 715, 729; People v. Lazaro, 319 Phil. 352, 361 (1995); People v. Layno, 332 Phil. 612, 625 (1996); People v. Foncardas, G.R. No. 144598, 6 February 2004, 422 SCRA 356, 370.

[22] Rollo, pp. 130-131.

[23] Id. at 131.

[24] People v. Larranaga, G.R. No. 138874-75, 3 February 2004, 421 SCRA 530, 571.

[25] People v. Medina, G.R. No. 155256, 30 July 2004, 435 SCRA 610, 620.

[26] Rollo, pp. 40 and 50.

[27] People v. Yatar, G.R. No. 150224, 19 May 2004, 428 SCRA 504, 520.

[28] Rollo, p. 32.

[29] Id. at 12-13.

[30] People v. Moriles, Jr., G.R. No. 153248, 25 March 2004, 426 SCRA 358, 365.

[31] People v. Pateo, supra note 19 at 615.

[32] Lapuz v. People, G.R. No. 150050, 17 June 2004, 432 SCRA 443, 447.

[33] People v. Comadre, G.R. No. 153559, 8 June 2004, 431 SCRA 366, 376.

[34] People v. Buayaban, 448 Phil. 57, 67 (2003).

[35] People v. Hapa, 413 Phil. 679, 695 (2001).

[36] People v. Sansaet, 426 Phil. 827, 833 (2002).

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[37] People v. Cadley, G.R. No. 150735, 15 March 2004, 425 SCRA 493, 499-500.

[38] Rollo, p. 50.

[39] Causin v. Demecillo, A.M. No. RTJ-04-1860, 8 September 2004, 437 SCRA 594, 606.

[40] Grieve v. Jaca, A.M. No. MTJ-01-1351, 27 January 2004, 421 SCRA 117, 122-123.

[41] Rollo, pp. 35-39.

[42] Id. at 38.

[43] People v. Werba, G.R. No. 144599, 9 June 2004, 431 SCRA 482, 495.

[44] People v. Aguila, G.R. No. 171017, 6 December 2006.

[45] Rollo, p. 43.

[46] People v. Aguila, supra note 43.

[47] Id.

[48] People v. Delim, 444 Phil. 430, 470-471 (2003).

[49] Rollo, p. 37.

[50] People v. Moriles, Jr., G.R. No. 153248, 25 March 2004, 426 SCRA 358, 368; People v. Buayaban, supra note 33 at 77; People v. Abrazaldo, 445 Phil. 109, 126 (2003).

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.