

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER DE GUZMAN Y LAUCHANGCO, ACCUSED-APPELLANT.

G.R. NO. 173197. April 24, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review is the Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00663 which affirmed the Decision[2] of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 11, finding accused-appellant Roger L. De Guzman guilty of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the heirs of Marcosa Lauchangco (Marcosa) the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

On 14 November 2000, appellant was charged before the RTC with the crime of murder under Article 248 of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That on or about the 15[th] day of October 2000, in the municipality of San Miguel, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a steel pipe and with intent to kill one Marcosa Lauchangco y Espino, a 67 year-old woman, with evident premeditation, treachery and taking advantage of superior strength, did and there willfully, unlawfully and feloniously attack, assault and hit with the said steel pipe said Marcosa Lauchangco y Espino, hitting her on the head, thereby inflicting on her mortal injuries which directly caused her death.[3]

During his arraignment on 5 January 2001, appellant, with the assistance of his counsel de oficio, entered a plea of not guilty.[4] Hence, trial ensued.

The evidence of the prosecution, as culled from the collective testimonies of Michael Lauchangco (Michael), nephew of the victim and first cousin of the appellant; Pedro Lauchangco (Pedro), brother of the victim; and SPO2 Antonio Palomo, who conducted an investigation of the case, are as follows:

The victim, Marcosa, was a 67-year old unmarried woman who owned a store located at San Jose, San Miguel, Bulacan, where she sold rice. On 15 October 2000, around 2:20 in the afternoon, Michael was sitting in front of the victim's store. Marcosa was inside her store, at that time preoccupied with getting some rice bran (darak).

Appellant entered the store and suddenly bashed Marcosa on the back of her head with a lead pipe. After the blow, the victim fell down, sprawled on the ground. Appellant again hit her twice with the same instrument. At this time, Michael was not able to see which part of Marcosa's body was being hit as she had fallen behind a sack of rice, which blocked his view. Frightened by the event, Michael left the scene and ran towards the house of his uncle Pedro Lauchangco. Michael recounted the incident to Pedro, after which, the two of them proceeded to the store of the victim. Marcosa, however, was no longer in her store because somebody had already brought her to the hospital.

On the same day, Marcosa died of cardiac arrest and cerebral hemorrhage due to severe head injury.

The killing incident reached the knowledge of the local police authorities when Robin de Guzman, a brother of the appellant, came to the police station and reported to SPO2 Antonio Palomo that it was appellant who assaulted the victim.

Appellant denied the imputation that he authored the crime. He testified that it was Rodolfo "Ompong" Boncales (Boncales), a helper of Marcosa, who perpetrated the crime. According to appellant, four days before the killing incident or on 11 October 2000, Boncales broached to him the plan of robbing the store of the victim. Instead of acceding to the idea, he warned Boncales that he could report the sinister plan to Marcosa. Nonetheless, Boncales told him to ponder upon the idea. Boncales left to buy a bottle of gin. When Boncales returned, he disclosed to appellant the details of his plan.

In the early morning of 15 October 2000, appellant and Boncales met again. Boncales asked appellant if he was ready. Appellant told Boncales that he could not go through with it because the victim was his aunt. Boncales chided him and gave him P20.00 to buy gin so as to embolden him. Appellant consumed the gin with Boncales taking a shot every now and then as he was walking to and fro the store which is only about 25 meters away from where they were drinking.

Later that day, at around 2:00 in the afternoon, while inside the store of the victim, appellant told Boncales that he could not go along with the plan. Also inside the store was Michael who was sitting on a pile of rice sacks. Appellant approached Michael and put his arms around his shoulder. When Michael noticed that appellant was drunk, the former ran away towards the barangay hall. At this point, Boncales closed the door of the store, which awakened the victim. Michael came back and told the victim that appellant was chasing him. Boncales went to the back of the store and suddenly hit the victim at the back of her head. Appellant cursed Boncales, but when he noticed that Boncales was holding a lead pipe, he moved away towards his house. Along the way, he met his brother, Roberto de Guzman. Appellant told his brother that Boncales attacked the victim. His brother instructed him to stay inside their house. When he returned to the store, he saw Boncales running towards the nearby Petron gas station. Later, between 2:30 to 2:45 in the afternoon, he saw a group of barangay officials and heard them remark "Nandun, nandun". Then, appellant heard a gunshot. Afraid, he ran to the adjacent house and hid himself inside a pig pen. When the barangay tanods came, he went out of the pig pen. One of the barangay tanods approached him and hit him with a night stick. Afterwards, he was arrested by the police.

Roberto de Guzman, one of appellant's brothers, testified that on 15 October 2000, at around 2:00 in the afternoon, while he was cooking, Boncales came to him to borrow a lead pipe. He lent Boncales the lead pipe and the latter left towards the direction of the victim's store. A few minutes passed, he heard a loud thud and he hurriedly proceeded to the store. On his way, he met appellant who told him that the victim was assaulted by Boncales. Together with his other brothers, Romeo and Robin, they went to the store and found the injured victim. They brought the victim to the hospital. When they returned to the scene of the crime, there were already several barangay officials and policemen in the place. Michael told him that it was appellant who hit the victim. Afterwards, he heard a gunshot coming from his house. He saw appellant surrender to the policemen.

Robin de Guzman, another brother of the appellant, testified that he was the one who reported the incident to the police. But he claimed that he did it only upon the instance of Pedro Lauchangco. He also declared that his written statement before the police given on 19 November 2000 implicating appellant to the crime was also upon the instruction of Pedro Lauchangco.

The trial court, in convicting the appellant, gave credence to the version of the prosecution and sentenced him with the penalty of reclusion perpetua. Appellant was also ordered to indemnify his victim in the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages. The dispositive portion of the RTC decision

reads:

WHEREFORE, this Court finds the accused Roger de Guzman GUILTY beyond reasonable doubt of Murder under Article 248 of the Revised Penal Code, as amended and hereby sentences him to suffer the penalty of Reclusion Perpetua and to pay the heirs of the victim the amount of Fifty Thousand (P50,000.00) Pesos as civil indemnity and the additional amount of Fifty Thousand (P50,000.00) as moral damages.[5]

Appellant filed a notice of appeal.[6] The trial court ordered the transmittal of the entire records of the case to this Court. Thereafter, this Court ordered the referral of the case to the Court of Appeals conformably with the ruling in the case of *People v. Mateo*. [7]

The Court of Appeals, on 27 May 2005, promulgated its Decision affirming the judgment of the trial court convicting the accused, thus:

WHEREFORE, the decision of the Regional Trial Court of Malolos, Bulacan, Branch 11, in Criminal Case No. 2975-M-200 finding accused-appellant guilty beyond reasonable doubt of the crime of Murder and imposing upon him the penalty of reclusion perpetua is AFFIRMED.[8]

Hence, the instant case.

In his Brief, the appellant assigns a single error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF MURDER DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Appellant takes exception with the trial court's assessment of the evidence before it and in giving weight and credence to the testimony of the prosecution witness, Michael Lauchangco.

Well-entrenched is the rule that the matter of assigning probative 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 position to discriminate between truth and falsehood.[9] 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 manifestly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[10]

In the instant case, prosecution's main witness, Michael Lauchangco, steadfastly pointed to appellant as the person who bashed the victim. He testified as follows:

Q: Mr. Witness, do you know the accused in this case, Roger de Guzman y Lauchangco?

A: Yes, sir.

Q: Why do you know Roger de Guzman?

A: Because he is my cousin, sir.

Q: To what degree?

A: He is my first cousin, sir.

Q: Now, on October 15, 2000, at about 2:00 in the afternoon, do you remember where you were?

A: Yes, sire.

Q: Where were you at that date and time?

A: I was in a rice store at San Jose, San Miguel, Bulacan, sir.

Q: And in what place is that rice store, Mr. Witness?

A: In San Jose, San Miguel, Bulacan, sir.

x x x x

Q: Aside from you, were there any other persons in that rice store?

A: No more, Marcosa Lauchangco, sir, was with me.

x x x x

Q: While you were there with Marcosa Lauchangco in that rice store, do you remember any unusual incident that happened?

A: Yes, there was, sir.

Q: And what was that unusual incident?

A: The killing of my auntie Marcosa Lauchangco, sir.

x x x x

Q: Will you kindly tell the Honorable Court how Marcosa Lauchangco was killed?

A: She was hit by a lead pipe, sir.

Q: And did you see or witness this killing, Mr. Witness?

A: Yes, sir.

Q: Do you know the person who hit Marcosa Lauchangco with the lead pipe?

x x x x

A: Yes, sir.

Q: Who?

A: Roger de Guzman, sir.

x x x x

Q: You stated that accused Roger de Guzman hit Marcosa Lauchangco with the lead pipe, have you seen as to what part of the body of Marcosa Lauchangco was hit?

A: The back of her head, sir.

Q: And what was the relative position of Marcosa Lauchangco in relation to Roger de Guzman when she was hit by the latter with the lead pipe?

A: Her back was turned against Roger de Guzman, sir.

Q: And what happened to Marcosa Lauchangco after she was hit with the lead pipe at the back of her head by Roger de Guzman?

A: She sprawled (nakadapa) on the ground, sir.

Q: And how many times did Roger de Guzman hit Marcosa Lauchangco with that lead pipe?

A: I saw him hitting Marcosa Lauchangco three time (3x), sir.

Q: And what did you do when you saw Roger de Guzman hitting Marcosa Lauchangco with that lead pipe?

A: I ran, sir.[11]

The witness vividly saw the incident as he was sitting in front of the victim's store when the killing took place. He could not have been mistaken as to the identity of the perpetrator for they are cousins. Indeed, his testimony is straightforward, unflawed by significant inconsistency, and unshaken by rigid cross-examination.

The trial court, in assessing the testimonial evidence of the prosecution as well as that of the defense, made this appropriate observation:

Between the version of the prosecution as provided by Michael Lauchangco and that of the defense, the former deserves greater credence. As borne out by the records, Lauchangco's testimony stands unrefuted. In narrating how the accused had assaulted the victim with a lead pipe from behind hitting her on the nape or the back of her head, Lauchangco was clear, concise and straightforward. Never had he wavered in his account, remaining firm throughout his testimony in the identification of the accused and no one else as the lone assailant. Lauchangco's opportunity to see how the accused attacked the deceased cannot be doubted. He was at the store when the accused came to the place and his presence was even acknowledged by the accused himself in his testimony. The testimony of Robin de Guzman that he saw Lauchangco running away from the store jibed with Lauchangco's narration of the incident, particularly, his own declaration that he fled from the scene because of fear. Efforts on the part of the defense to show that Lauchangco has ulterior motives in incriminating the accused for lack of concrete proof are futile. Thus, in the absence of any ill motive on the part of Lauchangco to point to the accused as the perpetrator of the crime, his testimony must be given full faith and credit.[12]

Worth stressing is that the Court of Appeals affirmed the findings of the RTC. The settled rule is that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court.[13] We find no cogent reason to veer away from their findings.

In an effort to exculpate himself from the charge, appellant contends that his defense of denial negates his culpability because this was duly supported by credible testimonies other than his own allegations.

Appellant's arguments fail to persuade us.

It must be pointed out that appellant's denial of guilt is insufficiently supported by any credible witnesses other than his own testimony and that of his brothers, which are but self-serving declarations directed to secure innocence. Evaluated against the positive identification of witness Michael Lauchangco, these self-serving testimonies cannot succeed. As declared in *People v. Jerez*: [14]

[W]here an accused's alibi is established only by himself, his relatives and friends, his denial of culpability should be accorded the strictest scrutiny. They are necessarily suspect and cannot prevail over the testimonies of the more credible witnesses for the prosecution.

Also in *People v. Teston*, it was enunciated:

Between the categorical identification of the accused by a prosecution witness and the accused's plain denial of participation in the commission of the crime, greater weight is always given to the former.[15]

Another reason why appellant's version of the killing is hard to believe is that this was only disclosed during the trial. If indeed the culprit of the crime was Rodolfo Boncales and not him, he would have divulged such information to the proper authorities right after the incident. For sure, its immediate disclosure would have been the normal and the natural reaction of an innocent person mistakenly suspected of a killing. Appellant's

unexplainable silence in revealing his version of the incident, is quite indicative that such story is only a last-ditch attempt to exonerate himself by concocting a story that would explain his presence in the scene of the crime when the offense was committed. Moreover, it is also worthy to note that despite his clear view of the incident, prosecution witness Michael Lauchangco did not see any other person within the store premises, which refutes the presence of Rodolfo Boncales thereat as alleged by the appellant.

The RTC convicted the appellant of murder, qualified by treachery under Article 248 of the Revised Penal Code.

The RTC is correct in appreciating the qualifying circumstance of 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.[16] Frontal attack can be treacherous when it is sudden and unexpected and the victim is unarmed.[17] What is decisive is that the execution of the attack made it impossible for the victim to defend himself/herself or to retaliate.[18] In the instant case, the victim was, without warning, bludgeoned by appellant at the back of her head. When she fell to the ground, appellant again hit her twice with the lead pipe. Said attack was so sudden and unexpected that the victim had not been given the opportunity to defend herself or repel the aggression. She was unarmed when she was clubbed. Indeed, all these circumstances indicate that the assault on the victim was treacherous.

Also affirmed is the ruling of the RTC and the Court of Appeals imposing upon the appellant the penalty of reclusion perpetua and ordering the appellant to pay the heirs of the victim the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages. However, in addition to these damages, exemplary damages should also be awarded to the heirs of the victim since the qualifying circumstance of treachery was proven by the prosecution.[19] When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code.[20] This kind of damage is intended to serve as deterrent to serious wrongdoings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct.[21]

WHEREFORE, the Decision of the Court of Appeals dated 27 May 2005 is hereby **AFFIRMED** with a modification that exemplary damages in the amount of P25,000.00 is also awarded to the heirs of Marcosa Lauchangco.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur.

Nachura, J., no part. Signed pleading as Sol Gen.

[1] Penned by Associate Justice Eugenio S. Labitoria with Associate Justices Eliezer R. Delos Santos and Arturo D. Brion, concurring; rollo, pp. 100-110.

[2] Penned by Judge Basilio R. Gabo, Jr.

[3] Records, p. 1.

[4] Id. at 10.

[5] Id. at 105.

[6] Id. at 111.

[7] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.

- [8] Rollo, p. 12.
- [9] *People v. Matito*, G.R. No. 144405, 24 February 2004, 423 SCRA 617, 625.
- [10] *People v. Piedad*, 441 Phil. 818, 838 (2002).
- [11] TSN, 21 February 2001, pp. 4-8.
- [12] Rollo, p. 24.
- [13] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.
- [14] G.R. No. 114385, 29 January 1998, 285 SCRA 393, 402.
- [15] G.R. No. 134938, 8 June 2000, 333 SCRA 404, 422.
- [16] *People v. Belaro*, G.R. No. 99869, 26 May 1999, 307 SCRA 591, 607.
- [17] *Id.*
- [18] *People v. Pidoy*, 453 Phil. 221, 230 (2003).
- [19] *People v. Aguila*, G.R. No. 171017, 6 December 2006.
- [20] *Id.*
- [21] *Id.*

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