

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARTEMIO CASELA AND FELIBERT INSIGNE, ACCUSED, ARTEMIO CASELA, ACCUSED-APPELLANT.

G.R. NO. 173243. March 23, 2007

Ponente: TINGA, J.

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TINGA, J.:

Appellant Artemio Casela (Casela) assails the Decision[1] of the Court of Appeals (CA) dated 15 March 2006, affirming with modification the Decision[2] of the Regional Trial Court (RTC), Branch 13 of Carigara, Leyte,[3] dated 10 February 2004, finding him guilty beyond reasonable doubt of the crime of murder.

In an Information[4] dated 31 March 2003 filed by Assistant Provincial Prosecutor Cesar M. Merin, appellant and his co-accused Felibert Insigne (Insigne) were indicted before the RTC for the crime of murder against Ronaldo Rañin (Rañin),[5] committed as follows:

That on or about the 3rd day of January, [sic] 2003, in the Municipality of Carigara, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent, with treachery and evident premeditation, did then and there wilfully (sic), unlawfully and feloniously attack, assault and stab one RONALDO RAÑIN with the use of a bladed weapon, which the accused have provided themselves for the purpose, thereby inflicting upon the latter the following wounds, to wit:

- Stabbed (sic) wound 5 cm x 2 cm x 13 cm (R) anterior chest at level of manubrium sterni with sternal fracture.
- Stabbed (sic) wound 3.5 cm x 1.4 cm x 15 cm (R) anterior chest at level of 4th ICS along sternal line.
- Stabbed (sic) wound 2.2 cm x 1 cm x 13 cm (R) anterior chest along anterior axillary line at level of 9th ICS.
- Stabbed (sic) wound 10 cm x 2.5 cm x 6 cm (L) arm middle 3rd, lateral aspect.

which wounds caused the death of said Ronaldo Rañin.

CONTRARY TO LAW.[6]

On 6 January 2003, appellant was placed under the custody of law. His co-accused Insigne, however, remains at large. Upon arraignment, appellant pleaded not guilty.[7] The case forthwith proceeded to trial with the prosecution presenting the following witnesses: (1) Dr. Bella Vega-Profetana (Dr. Profetana), Municipal Health Officer of Carigara, Leyte; and (2) Reynaldo Makabenta (Makabenta), the alleged eyewitness to the attack on the victim.

The prosecution espoused the following version of the incident, as established by the testimony of Makabenta:

At around 10:00 o'clock in the evening of 2 January 2003, Makabenta, the victim Rañin and three (3) other friends

started their drinking spree in Barangay Sawang, Carigara, Leyte. Later, at around 3:00 o'clock the following morning, Rañin excused himself from the ongoing drinking session in order to buy cigarettes from Naglor Videoke in the next barangay as all the stores in Barangay Sawang were already closed. When the victim did not return, Makabenta decided to go to Naglor Videoke himself. As he approached that establishment, located within the premises of the public market of Barangay Baybay, Makabenta saw Rañin being attacked by Insigne and appellant as Rañin was about to ride his bike.[8] Makabenta was about three (3) meters away from Rañin when he witnessed the latter being successively stabbed by both malefactors.[9] Although Rañin was able to run away after the initial assault, he was pursued by Insigne and appellant.[10] In the course of the chase, Makabenta testified, Insigne was able to grab the back neckline of Rañin's shirt, turning the latter towards him as the two accused proceeded to deliver more stabbing blows Rañin until Rañin fell to the ground. Afraid to get involved, witness Makabenta left the scene and reported the incident to the nearest police station. Thereafter, he returned to Barangay Sawang and told their friends about what had transpired, including the fact that Rañin had died.[11]

Dr. Profetana, who conducted the post-mortem examination of the victim, testified that she found four (4) stab wounds on the victim. The first wound, directed backwards, was fatal as it likely hit the heart. The second one was likewise fatal, hitting vital organs such as the lungs and heart. The third stab wound was also fatal, hitting the liver. The fourth wound, which only lacerated the victim's arm, was not fatal. She identified the cause of death to be hypovolemic shock secondary to blood loss. Thus, the victim died due to the decrease in the volume of blood secondary to bleeding caused by the multiple wounds he sustained on the anterior chest. In light of the extent of the injuries suffered and the vital organs damaged, Dr. Profetana opined that the victim could not have survived the attack.[12]

In his defense, appellant avers that he had no participation in the attack on Rañin which resulted in the latter's death. He testified that at about 1:00 o'clock in the morning of 3 January 2003, he was at Naglor Videoke Bar on a drinking spree with Insigne. Rañin allegedly entered the bar, immediately approached their table and asked who their other companions were.[13] Appellant maintained that he did not reply to the Rañin's query because it was public knowledge that there was a feud between the families of Rañin and Insigne, and this being so, he was apprehensive that trouble might erupt inside the bar.[14] Thereafter, according to appellant, Insigne stepped out of the bar and he followed suit. As appellant headed home, about three (3) stores away from the videoke bar, he turned back and saw Insigne stabbing Rañin who was holding his bicycle. Appellant purportedly yelled at Insigne to stop but his advice was not heeded, thus appellant ran home.[15] Appellant alleged that the only person in the vicinity at the time of the incident was his younger sister, who was on her way to fetch him.[16] He asserted that Makabenta was not then present.[17]

Appellant also presented SPO4 Teofilo Lucelo (SPO4 Lucelo) to refute the assertions of Makabenta that he had reported the incident to the police and, consequently, to cast doubt on his claim that he had personally witnessed the events that led to the death of Rañin. SPO4 Lucelo testified that from 2 January 2003 until about 8:00 o'clock in the morning of the next day, he was officer of the day at the police station of Carigara, Leyte. At about 3:00 o'clock in the morning of 3 January 2003, an unidentified caller from the market compound reported that there had been a commotion therein. While SPO4 Lucelo did not notice if anyone had gone to their office that morning to inform them of the incident, he was certain that he did not see Makabenta in their office. He admitted, however, that he had an alert team of seven (7) men and an assistant investigator also then on-duty.[18]

Finding that the prosecution had proven the guilt of appellant for the crime of murder beyond reasonable doubt, the RTC rendered judgment against appellant on 10 February 2004. With the appreciation of the aggravating circumstances of conspiracy, treachery and nighttime, and without any mitigating circumstance, appellant was sentenced to suffer the penalty of death and to pay: (1) civil indemnity ex delicto to the heirs of the victim in the

amount of P75,500.00; (2) P18,500.00 as actual damages; (3) P25,000.00 as exemplary damages; and (4) cost.[19]

With the death penalty imposed on appellant, the case was elevated to this Court on automatic review. However, pursuant to this Court's ruling in *People v. Mateo*,[20] the case was transferred to the Court of Appeals.[21]

On 15 March 2006, the appellate court rendered its decision affirming with modification appellant's conviction. The penultimate paragraph and dispositive portion of the decision states:

The penalty for murder under Article 248 of the Revised Penal Code is reclusion perpetua to death. Having discounted the appreciation of conspiracy and nighttime as generic aggravating circumstances, the crime in the case at bench was not aggravated, and there being no mitigating circumstance, in accordance with Article 61, the lesser penalty of reclusion perpetua should be imposed. Thus, for the murder of Ronaldo Rañin, we reduce the penalty of accused-appellant Artemio Casela from death to reclusion perpetua.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the appeal filed in this case and AFFIRMING with MODIFICATION the Decision dated February 10, 2004 of the RTC of Carigara, Leyte in Criminal Case No. 4253 such that the accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua. All other dispositive portions of the assailed Decision are hereby AFFIRMED by us.

SO ORDERED."[22]

On 13 September 2006, the Court issued an order requiring the parties to submit their respective supplemental briefs within thirty (30) days from notice should they so desire.[23] On 14 November and 22 November 2006, appellant and appellee filed similar manifestations that they are adopting the briefs they filed before the Court of Appeals.[24] Thus, appellant raises the following errors in this petition for review:

I

THE COURT A-QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PROSECUTION'S ALLEGED EYEWITNESS.

II

THE COURT A-QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

III

THE COURT A-QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER INSTEAD OF HOMICIDE.[25]

Simply put, the Court is called upon to determine whether or not the guilt of appellant for the crime as charged has been established beyond reasonable doubt. The determination of the sufficiency of the prosecution's evidence to sustain a conviction hinges primarily on the credibility of its sole eyewitness.

Appellant argues that it was error for the trial court to have relied mainly on Makabenta's testimony that he positively identified appellant as the victim's assailant considering that the latter's claim that he personally reported the stabbing incident to the police authorities was categorically disputed by SPO4 Lucelo. He further avers that a certain Maimai Aguillon (Aguillon) was the actual eyewitness to the incident but that the prosecution failed to present her during the trial, thus leaving the testimony of Makabenta doubtful.[26]

After carefully sifting the evidence on record, we find no reason to depart from the findings of the RTC on the

credibility of Makabenta. As a general rule, the trial court is in the best position to determine facts and to assess the credibility of witnesses as it is in a unique position to observe the witnesses' deportment while testifying, an opportunity denied the appellate court.[27] Hence, the trial court's assessment of the credibility of witnesses is entitled to great respect and will not be disturbed on appeal, unless: (1) it is found to be clearly arbitrary or unfounded; (2) some substantial fact or circumstance that could materially affect the disposition of the case was overlooked, misunderstood, or misinterpreted; or (3) the trial judge gravely abused his or her discretion.[28]

That Makabenta was the sole eyewitness to the killing of Rañin presented against appellant is not, by itself, determinative. Criminals are convicted not on the number of witnesses against them but on the quality of the testimony given under oath. Even one witness will suffice provided he or she succeeds in convincing the court of the

guilt of the accused with moral certainty.[29] The testimony of a single witness is sufficient to sustain a conviction, even of a charge of murder, if it is positive and credible.[30]

Moreover, the prosecution is under no duty to present a definite number of witnesses. The discretion to decide whom it wants to call to the witness stand lies with the prosecution. It is axiomatic that witnesses are weighed, not numbered, and the testimony of a single witness may suffice for conviction if otherwise trustworthy and reliable for there is no law which requires that the testimony of a single witness needs corroboration except where the law expressly mandates otherwise.[31] Accordingly, the prosecution's decision to forego the presentation of Aguillon as corroborating witness is a matter of discretion and does not by itself militate against the credibility of Makabenta. Curiously, if the defense found Aguillon's testimony to be of such consequence, it is a wonder why it did not so present her to bolster appellant's assertions.

Ultimately, the presentation of Makabenta at the trial as the sole eyewitness to the whole event should not by itself erode his credibility. It is worthy to note that Makabenta testified with candor and consistency in recounting the material events of the crime. A witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent is a credible witness.[32] What is more, where conditions of visibility are favorable and the eyewitness' assertion as to the identity of the assailant is not tainted with bias, said assertion as to the identity of the malefactor can very well be accepted.[33] There is no evidence to show any dubious or improper circumstances or motive why Makabenta would prevaricate against appellant and his co-accused or falsely implicate them in a heinous crime as he was friends not only with the victim, but with appellant and Insigne as well.[34] Hence, appellant's bare denial cannot overcome his positive identification by the prosecution witness.[35]

On record, Makabenta declared under oath and in unequivocal terms that he saw, from a distance of approximately three to six meters, in a well-lit place how appellant and his co-accused had attacked the victim. He was unambiguous and positive in naming appellant and his co-accused as the perpetrators of the killing, and in narrating the specifics of the criminal incident, viz:

x x x x

Atty. Canamaque:

Q Do you know the accused Artemio Casela, Jr.?

A Yes, sir.

Q Why?

A Because he is my barkada.

Q How long have you been a barkada with (sic) Artemio Casela, Jr.?

A Long time.

x x x x

Q How about Felibert Insigne, do you know him personally?

A Yes, sir.

Q Why?

A He is also my barkada.

Q How long have you been a barkada of Felibert Insigne?

A Long time, sir.[36]

x x x x

Q And did you know where Onie go (sic) to buy cigarette(s)?

A Yes, sir.

Q Where?

A At the Videoke's place.

Q Did Onie Rañin return back to the place where you were drinking?

A No, sir.

Q So, what did you do?

A So, I went there at (sic) the place where there is a Videoke and I used my bike in going there and I saw Onie who was about to ride his bike too.

Q Where is this Videoke located?

A Naglor Videoke.

Q Where is that?

A At Brgy. Baybay, Carigara, Leyte.

Q Where particularly in Baybay, Carigara, Leyte?

A Within the premises of the public market.

Q Were you able to reach that place?

A Yes, sir.

Q Can you tell this Honorable Court whether that place is well lighted since it is a market?

A Yes, sir there (sic) was.

Q Now, you said Onie Rañin was about to ride on his bike, what happened?

A He was successively stabbed by Felibert.

Q Was Onie Rañin hit by the stabbing blow of Felibert Insigne?

A Yes, sir.

Q After Felibert Insigne stabbed [sic], what happened next?

A He was again stabbed.

Q By whom?

A That person. [(Witness pointing to a person in the courtroom who when asked of his name identified himself as Artemio Casela, Jr.)]

Q After Artemio Casela, Jr., the accused herein [,] followed the stab (sic) of Felibert Insigne, what happened?

A Onie ran.

Q Towards what?

A To the place of his mother.

Q Now, when he was running, what happened?

A He was chased by them.

Q Was he overtaken by the two accused?

A Yes, sir.

Q And the two accuse overtook Onie Rañin, what happened?

A He was stabbed again.

Q Was Onie Rañin hit?

A Yes, sir.

Q And particularly Felibert Insigne was able to hit?

A Yes, sir.

Q How about Artemio Casela, Jr. was he able to hit also Onie Rañin?

A Yes, sir.

Q After hitting by the two stabbing blow (sic) by these two accused, what happened to Onie?

A He fell to the ground.

x x x [37]

Appellant contends that Makabenta's testimony is rendered dubious by the testimony of his witness SPO4 Lucelo. There is nothing contradictory between the eyewitness account of Makabenta and the testimony of SPO4 Lucelo. Makabenta makes no declaration that he reported the incident to Lucelo himself. In fact, in SPO4 Lucelo's own testimony, he admits that there were other police officers then on-duty, including his assistant investigator. In the end, SPO4 Lucelo's claim that he did not see Makabenta reporting the incident does not detract from the positive assertions made by the prosecution witness on the matter of the killing of the victim.

After weighing the clashing versions of the prosecution and the defense, we agree with the trial court's conclusion that the prosecution's version is more credible.[38] However, was the offense committed murder or only homicide?

The trial court and the appellate court, in convicting appellant of murder, ruled that the killing was qualified by treachery. There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend to directly and specially insure the execution of the crime without risk to himself arising from the defense which the offended party might make.[39] To establish treachery, two elements must concur: (1) that at the time of the attack, the victim was not in a position to defend himself, and (2) that the offender consciously adopted the particular means of attack employed.[40] The RTC made the following observations on the matter -

With the number, location and nature of the wounds sustained by the victim Ronaldo Rañin, there is apparent treachery in the execution of the dastardly acts by the perpetrators. The victim was unarmed and totally defenseless, without any opportunity to defend himself or retaliate against the accused, could be gleaned from the fact that accused Artemio Casela, Jr. and Felibert Insigne did not suffer even a single scratch on their body after the stabbing incident.[41]

In concurring with the RTC that the killing was qualified by treachery, the appellate court made this pronouncement, thus -

x x x Gleaned from the testimony of Makabenta, the deceased was unarmed and about to ride his bicycle when he was suddenly and successively stabbed by Insigne and then the accused-appellant also joined in the stabbing of the deceased. The deceased tried to run but he was chased and was successfully overtaken by the two assailants. Insigne and the accused-appellant successfully stabbed the deceased until the latter fell to the ground.

Under the foregoing circumstances, the deceased was clearly not in any position to defend himself from the sudden and unexpected attack of the accused-appellant and Insigne. These circumstances are manifestly indicative of the presence of the conditions under which treachery may be appreciated, i.e., the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate, and that said means of execution was deliberately or consciously adopted.[42]

We find the rulings of the RTC and CA amply supported by the evidence on record. Treachery attended the stabbing of Rañin because he was unarmed and the attack on him was swift and sudden. He had no means and there was no time for him to defend himself. The prosecution was able to establish that appellant's attack on the victim was without any slightest provocation on the latter's part and that it was sudden and unexpected. This is a clear case of treachery. There being treachery, appellant's conviction for murder is in order.

The essence of treachery is the sudden and unexpected attack by an aggressor without the slightest provocation on the part of the victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor. In this case, treachery was already present when appellant and Insigne, armed each with a bolo, approached the victim and suddenly stabbed him. Rañin did not have the faintest idea that he was vulnerable to an attack, considering that he was boarding his bicycle, oblivious of the sinister intent of appellant and Insigne. The fact that the victim was facing his malefactors at the time of the latter's attack did not erase its treacherous nature. Even if the assault were frontal, there was treachery if it was so sudden and unexpected that the victim had no time to prepare for his defense.[43] Even more, the fact that appellant and Insigne chased the victim to inflict more stabbing blows after the latter had already been gravely wounded clearly exhibits the treacherous nature of the killing of the victim.

The attendance of treachery in the slaughter of Rañin can be plainly deduced from the following excerpts of Makabenta's testimony -

x x x x

Q Now, you said Onie Rañin was about to ride on his bike, what happened?

A He was successively stabbed by Felibert.

Q Was Onie Rañin hit by the stabbing blow of Felibert Insigne?

A Yes, sir.

Q After Felibert Insigne stabbed, what happened next?

A He was again stabbed.

Q By whom?

A That person. [(Witness pointing to a person in the courtroom who when asked of his name identified himself as Artemio Casela, Jr.)]

Q After Artemio Casela, Jr. the accused herein followed the stab (sic) of Felibert Insigne, what happened?

A Onie ran.

Q Towards what?

A To the place of his mother.

Q Now, when he was running, what happened?

A He was chased by them.

Q Was he overtaken by the two accused?

A Yes, sir.

Q And the two accused overtook Onie Rañin, what happened?

A He was stabbed again.

Q Was Onie Rañin hit?

A Yes, sir.

Q And particularly Felibert Insigne was able to hit?

A Yes, sir.

Q How about Artemio Casela, Jr.[?] was he able to hit also Onie Rañin?

A Yes, sir.

Q After hitting by the two stabbing blow (sic) by these two accused, what happened to Onie?

A He fell to the ground.

x x x x[44]

In light of the foregoing, the Court holds that the finding of guilt as pronounced by the RTC and the Court of Appeals should be sustained. With respect to the civil liability of appellant, the award should be modified in light of prevailing jurisprudence. Therefore, appellant is ordered to indemnify the heirs of Ronaldo Rañin in the amount of P50,000.00 as civil indemnity, P18,500.00 as actual damages for funeral expenses, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.[45]

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CR. H.C. No. 00248, finding appellant ARTEMIO CASELA guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED WITH MODIFICATION. As modified, appellant is ordered to pay the heirs of the victim Ronaldo Rañin the amounts of P50,000.00 as civil indemnity, P18,500.00 as actual damages, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. No pronouncement as to costs.

SO ORDERED.

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

[1] Rollo, pp. 4-14. Penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Ramon M. Bato, Jr. and Apolinario D. Bruselas, Jr.

[2] CA rollo, pp. 49-61.

[3] Presided by Judge Crisostomo L. Garrido.

[4] Records, p. 14.

[5] Also referred to in the records as Onie Rañin.

[6] Supra note 4.

[7] Records, p. 23.

[8] TSN, 21 July 2003, pp. 5-7.

[9] Id. at 13.

[10] Id. at 7-8.

[11] Id. at 8-9.

[12] TSN, 18 July 2003, pp. 4-6.

[13] TSN, 16 September 2003, pp. 3-5.

[14] Id. at 5-6.

[15] Id. at 6-9.

[16] TSN, 29 October 2003, pp. 3-5.

[17] Id. at 5.

[18] TSN, 28 July 2003, pp. 3-5.

[19] CA rollo, pp. 12-24.

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

[21] Docketed as CA-G.R. CR. H.C. No. 00248.

[22] Rollo, pp. 4-14.

[23] Id. at 15.

[24] Id. at 16-17; 18-20.

[25] CA rollo, pp. 38.

[26] Id. at 44.

[27] People v. Hormina, G.R. No. 144383, January 16, 2004, 420 SCRA 102; People v. Rafael, 432 Phil. 515, 529 (2002); Hugo v. Court of Appeals, 437 Phil. 260, 268 (2002) citing People v. Araneta, 335 SCRA 1, 8 (2000) and

People v. Francisco, et al., 332 SCRA 305, 331 (2000). See also People v. Ponsaran, 426 Phil. 836 (2002); People v. Ombrog, 268 SCRA 93 (1997); People v. Virtucio, Jr., 326 SCRA 198 (2000); People v. Hermosa et al., G.R. No. 131805, 7 September 2001.

[28] Hugo v. Court of Appeals, supra citing People v. Barro, Sr., et al., 338 SCRA 312, 322 (2000).

[29] Hugo v. Court of Appeals, supra note 25 at 272 citing People v Abubu, 322 SCRA 407, 413 (2000), citing People v. Sanchez, 313 SCRA 254, 268 (1999).

[30] Hugo v. Court of Appeals, supra note 25 citing People v. Salcedo, 273 SCRA 473, 495 (1997) and People v. Asoy, 251 SCRA 682, 687-688 (1995).

[31] People v. Ponsaran, supra note 25 at 846-847.

[32] People v. Ponsaran, supra note 25 at 847 citing People v. Noay, 296 SCRA 292 (1998).

[33] People v. Hormina, supra note 25 at 849; citing People v. Bragat, G.R. No. 134490, 4 September 2001, 364 SCRA 425, 430.

[34] People v. Ponsaran, supra note 25 at 849 citing People v. Banguis, 291 SCRA 279 (1998).

[35] See People v. Ubaldo, 396 Phil. 509, 521 (2000) citing People v. Sotto, 275 SCRA 191, 202-203 (1997).

[36] TSN, 21 July 2003, pp. 3-4.

[37] TSN, 21 July 2003, pp. 6-8.

[38] People v. Hormina, supra note 25 at 111, citing People v. Enfectana, G.R. No. 132028, 19 April 2002, 381 SCRA 359, 368.

[39] People v. Hormina, supra, citing People v. Coca, Jr., G.R. No. 133739, 29 May 2002, 382 SCRA 508, 519.

[40] People v. Jarlos, 445 Phil. 801, 809 (2003), citing People v. Rabanal, G.R. No. 146687, 22 August 2002. See also People v. Retubado, 463 Phil. 51, 66 (2003), citing People v. Parba, 364 SCRA 488 (2001).

[41] CA rollo, p. 20.

[42] Rollo, pp. 11-12.

[43] People v. De Manuel, 331 Phil. 333, 345 (1996).

[44] TSN, 21 July 2003, pp. 7-8.

[45] People v. Piliin, G.R. No. 172966, 8 February 2007.

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