

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. AMANDO GANNABAN, JR. Y PATTUNG, APPELLANT.

G.R. No. 173249. November 20, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

This is an appeal from the 27 February 2006 Decision[1] of the Court of Appeals in CA-G.R. CR-HC No. 00613. The Court of Appeals affirmed with modification the decision of the Regional Trial Court, Branch 4, Tuguegarao City, Cagayan finding appellant Amando Gannaban, Jr. y Pattung guilty beyond reasonable doubt of double murder.

In two separate Informations dated 6 November 1992, appellant together with Alberto Bernales y Cardenas, who eventually died during the trial, were charged with the murder of spouses Amado and Rosita Vista.

Appellant pleaded not guilty upon arraignment.

During the trial, the prosecution presented Arnel and Airene Vista, the victims' minor children. The children testified that on 6 October 1991 at about 7:00 p.m., the whole family was in their house in Damurog, Alcala when four armed men approached their parents asking for the whereabouts of the barangay captain. The armed men forced the children's father, Amado, to accompany them but the children's mother, Rosita, tried to prevent the armed men from taking Amado. The armed men, sensing that Rosita recognized them, fired two shots causing her death. Amado ran towards Rosita but the armed men chased and shot him as well. The children positively identified appellant and Alberto Bernales as the persons who shot their parents.

On the other hand, appellant denied the charges and alleged that he was in the house of Isabelo Buelta (Buelta)[2] at Gabot, Amulung, Cagayan with Eduardo Tabay (Tabay) and Plaridel Pagaduan (Pagaduan) shelling corn. He arrived at the house around 6:00 p.m. and went home after his job was done at 10:00 p.m. Appellant claimed that he is being implicated in this case because he shot to death Dionisio Vista (Amado's father) when the latter was continuously stabbing his cousin Alberto Bernales.

Defense witnesses Pagaduan and Buelta corroborated appellant's testimony and claimed that they were together on the night of 6 October 1991 shelling corn at Buelta's house. However, in their Joint Affidavit, Buelta, Tabay, and Pagaduan declared that on the same evening, they were just conversing with the appellant at Buelta's house, contrary to their testimonies that they were shelling corn.

The trial court gave premium to the testimonies of the victims' minor children. Appellant's alibi that he was at Buelta's house cannot prevail over the positive identification and unwavering positive assertions of the prosecution witnesses. Besides, it was not impossible for appellant to be at the crime scene considering the proximity of Gabot, Amulung to Damurog, Alcala. Appellant himself testified that it would only take 15 minutes to walk from Gabot to Damurog.

On 27 June 2000, the trial court rendered its decision, finding appellant guilty of double murder under Article 248

of the Revised Penal Code. The trial court sentenced appellant to suffer the penalty of double reclusion perpetua, and to pay the heirs of the victims P140,000 as indemnity and P40,000 as actual damages.

On appeal, appellant contended that the trial court erred in giving weight and credence to the incredulous testimonies of the prosecution's witnesses which were conflicting and inconsistent. Appellant alleged that the prosecution failed to prove his guilt beyond reasonable doubt. Appellant also questioned the award of actual damages despite the lack of evidence to prove the same.

In its 27 February 2006 Decision, the Court of Appeals affirmed the trial court's decision with modification, reducing the civil indemnity to P100,000 and awarding moral damages of P50,000 and temperate damages of P25,000. The appellate court deleted the award of actual damages of P40,000. The appellate court ruled that the discrepancies in the testimonies of the prosecution's witnesses refer to immaterial and collateral matters that do not affect the credibility of the witnesses, especially since their answers to the questions were brief, direct, and firm in positively identifying appellant as one of the gunmen. The appellate court held that appellant's alibi and denial are bereft of merit. Appellant failed to convincingly prove that it was physically impossible for him to be at the place of the crime considering the close proximity of Gabot and Damurog. The appellate court also upheld the ruling of the trial court that the crime of double murder was attended by treachery because the attack against the victims, who were unarmed, was sudden, unexpected, and without any opportunity for the victims to defend themselves.

Hence, this appeal.

We find the appeal without merit. The Court of Appeals was correct in affirming the ruling of the trial court that double murder was clearly established by the prosecution's witnesses who were then elementary pupils at the time of the incident. The assessment of the credibility of witnesses and their testimonies is best undertaken by the trial court due to its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grilling examination.[3] These significant factors are needed in unearthing the truth, especially in conflicting testimonies. The findings of the trial court on such matters are binding and conclusive on the appellate court unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted,[4] which is not true in the present case. Moreover, the prosecution witnesses' testimonies were worthy of belief since the witnesses were young and they had no ill-motive to falsely testify and impute a serious crime against appellant.

The clear and convincing testimonies of Arnel and Airene Vista, children of the victim spouses, positively point to appellant as one of those armed men who shot their parents. Arnel testified that he was just a few feet away from his parents and the assailants.[5] Thus, it was unlikely that he could not recognize the appellant considering that they belong to the same barrio.[6] Airene also testified that she recognized appellant's face[7] and saw how appellant shot her mother.[8]

Appellant's alibi that he was shelling corn at Buelta's house in the evening of 6 October 1991[9] cannot prevail over the positive and categorical testimonies of Arnel and Airene Vista. Appellant's testimony as corroborated by his witnesses, Buelta and Pagaduan, does not prove that appellant arrived at Buelta's house at exactly 6:00 p.m. because none of them had a watch. It was not physically impossible for appellant to be at the crime scene at the time of the incident. As found by the trial court and attested by appellant himself, it would only take 15 minutes to walk from Gabot to Damurog.

The trial court was correct in finding appellant guilty of double murder as the killing was attended by treachery. The evidence shows that the accused suddenly and unexpectedly attacked the victims, who were resting in their house.

Treachery has been defined as “the deliberate employment of means, methods, or forms in the execution of a crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the intended victim might raise.”[10]

The Court of Appeals correctly imposed the penalty of double reclusion perpetua on appellant. The appellate court also correctly awarded P100,000 as civil indemnity, P50,000 as moral damages, and P25,000 as temperate damages.

Finally, the victims’ heirs are likewise entitled to exemplary damages since the qualifying circumstance of treachery was firmly established by the prosecution. We have held that if a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000 as exemplary damages is justified under Article 2230 of the New Civil Code.[11] This kind of damages serves as deterrent to serious wrongdoings, as vindication of undue suffering and wanton invasion of the rights of an injured person, and as punishment for those guilty of outrageous conduct.

WHEREFORE, we AFFIRM the 27 February 2006 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00613 finding appellant Amando Gannaban, Jr. y Pattung guilty beyond reasonable doubt of two counts of murder with the MODIFICATION that the victims’ heirs are also entitled to the award of exemplary damages of P25,000.

SO ORDERED.

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

[1] Penned by Associate Justice Edgardo F. Sundiam with Associate Justices Martin S. Villarama, Jr. and Japar B. Dimaampao, concurring.

[2] Spelled as “Vuelta” in Exhibit “D.”

[3] *People v. Lopez*, G.R. No. 172369, 7 March 2007, 517 SCRA 749, 760.

[4] *People v. Alarcon*, G.R. No. 174199, 7 March 2007, 517 SCRA 778, 784.

[5] TSN, 29 August 1994, pp. 5-6.

[6] *Id.* at 2.

[7] TSN, 30 March 1995, p. 11.

[8] *Id.* at 17-18.

[9] TSN, 19 May 1997, p. 2.

[10] *People v. Cabinan*, G.R. No. 176158, 27 March 2007, 519 SCRA 133, 140-141.

[11] *People v. Ausa*, G.R. No. 174194, 20 March 2007, 518 SCRA 602, 618-619.

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