

ANGEL UBALLES Y VELEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 175692. October 29, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

While the correctness of a Decision is not impaired solely by the fact that the writer took over from a colleague who had earlier presided at trial, it is the bounden duty of appellate courts to even more closely examine the testimonies of the witnesses whose deportment the writer was not able to observe.

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal of the Decision^[1] of the Court of Appeals in CA-G.R. CR No. 28813 dated 30 November 2006. The Court of Appeals affirmed with modification the Decision of the Regional Trial Court of Manila, Branch 33, in Criminal Case No. 01-196713 finding petitioner Angel Ubales y Velez (Ubales) guilty of the crime of homicide.

On 30 October 2001, the Assistant City Prosecutor filed an Information against petitioner Ubales for the crime of homicide allegedly committed as follows:

That on or about October 17, 2001, in the City of Manila, Philippines, the said accused, armed with a .38 caliber paltik revolver marked Smith and Wesson, did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and use personal violence upon one MARK TANGLAW SANTOS y ORPIANA by then and there shooting the latter on the head, thereby inflicting upon him mortal gun shot wound which was the direct and immediate cause of his death thereafter.^[2]

On the same date, the Executive Judge issued an Order of Release in view of a personal bail bond filed by Ubales.

On 19 November 2001, petitioner Ubales, assisted by counsel, pleaded not guilty of the offense charged.

The prosecution presented as witnesses Eduardo Galvan, SPO1 Eduardo E. Ko, Laila Cherry Cruz, SPO2 Rosales M. Fernandez, P/Chief Inspector Carlos G. Mendez, and Efigenia Santos. The prosecution also presented as evidence Medico Legal Report No. W-737-2001 and the receipt of the funeral expenses incurred.

Laila Cherry Cruz, the sister of Mark Santos, testified that on 16 October 2001, at about 8 p.m., petitioner Ubales and the deceased Mark Santos (Mark) were drinking liquor in front of the victim's house at 4334 Interior 5 Albina Street, Sta. Mesa, Manila. They were with a group which included a certain Jon-Jon, Solo Perez, and Jojo Santos. In the course of their carousal, Ubales and Mark engaged in an argument about the former calling the latter's cousin a homosexual. Mark told Ubales not to meddle because he (Ubales) did not know what was happening within his (Mark's) family. The argument was soon apparently resolved, with Ubales patting the shoulders of Mark.

The carousal ended at 1 a.m. the following day. Mark and Ubales went inside the house. Ubales asked permission from Laila Cruz to use their comfort room. Before Ubales went inside the comfort room, Laila Cruz saw Ubales place his gun with black stripes on top of the dining table. Mark asked permission from his mother to bring

Ubales to his house in J.P. Laurel Street and also asked for money so that they could eat lugaw on their way there. Mark and Ubales then left.

Eduardo Galvan (Galvan), a 65-year old balut vendor and the best friend of the deceased Mark Santos, testified that at 3 a.m. in the morning of 17 October 2001, while he was selling balut near the Malacañang area, he saw Mark and Ubales quarreling around a meter away from him. The argument lasted for about three minutes, culminating with Ubales taking out his gun and shooting Mark on the head. Galvan is certain about this, as he was still only one meter away from Mark and Ubales when the former shot the latter, and the place was well-illuminated. When Mark fell, Ubales ran towards Atienza Street. Galvan also testified that he was an acquaintance of Ubales for about five months prior to the incident.

SPO1 Eduardo Ko testified that he was assigned as the night-shift investigator of the Homicide Section of the Western Police District (WPD) when he received a report at around 3:55 a.m. of 17 October 2001 that a body was found at Jose P. Laurel St. corner Matienza St., San Miguel, Manila. Upon arrival thereat, he, together with SPO1 Benito Cabatbat, saw Mark's body, which had no injury other than a gunshot wound on the forehead, lying on its left side. The gunshot appeared to have been fired at close range because it had powder burns around the entry of the wound. They proceeded to interview people at the scene, during which time a barangay official named Abraham Sison turned over a .38 Caliber snub nose paltik revolver with three live bullets and one empty shell. The gun was recovered several meters away from where the victim's body was found.

SPO2 Rosales Fernandez testified that at around 3 p.m. of 25 October 2001, while he was at home, Laila Cruz approached him and asked for his assistance in apprehending Ubales who was spotted near the Malacañang area. SPO2 Fernandez reported to the Homicide Section of the WPD that a murder suspect was seen in the vicinity of Malacañang. SPO2 Fernandez and Laila Cruz then proceeded to J. P. Laurel Street, where Laila Cruz pointed at the person she identified to be the one who killed her brother. SPO2 Fernandez, introducing himself as a police officer, approached Ubales. SPO2 Fernandez found out that Ubales was a former member of the Philippine National Police (PNP) Special Action Force. He apprised Ubales of his rights and invited him to go to the PNP Field Force for proper investigation. Ubales told SPO2 Fernandez that he would voluntarily join him to prove to him that he was not in hiding. Before going to the PNP Field Force, SPO2 Fernandez and Ubales went to the Philippine General Hospital in order to have Ubales undergo a medical examination. SPO2 Fernandez and Ubales proceeded to the PNP Malacañang Field Force to coordinate with them, since the latter made the initial investigation of the shooting incident. At the Malacañang Field Force, Ubales was brought to the Homicide Section for investigation and description. SPO2 Fernandez admitted during cross examination that the arrest of Ubales came before witness Galvan appeared and executed a sworn statement.

P/Chief Inspector Carlos G. Mendez, a forensic firearm examiner, testified that on 5 November 2001, he received a .38 caliber paltik revolver with three bullets and one empty shell from Desk Officer PO2 Lopez. He examined it by firing the same. The gun was marked as Exhibit "H". Laila Cruz then testified that said gun was the same one she saw Mark place on the dining table the night before her brother was killed.

The prosecution and the defense stipulated that the cause of death of Mark was a gunshot wound, frontal region, measuring 0.5 x 0.4 cm, 3 cm right of the anterior midline, with a uniform collar measuring 0.2 and an area of tattooing measuring 6x5 cm, directed posteriorward, downward and medialward, fracturing the frontal bone, lacerating both cerebral hemisphere of the brain, with a deformed slug recovered at the cerebellum as stated in the Crime Laboratory report prepared and signed by Dr. Romeo Salen, the medico-legal officer of OIC WPDCLLO, documented as Medico-Legal Report No. W-737-2001.

After the prosecution rested its case, Ubales filed a Motion to File Demurrer to Evidence on the ground that the

prosecution presented insufficient evidence to destroy the presumption of innocence of the accused. The trial court denied the Motion and accordingly set the hearing for presentation of the evidence of the defense.

Ubales testified that on 16 October 2001, at around 6 or 7 p.m., he went to the home of his friend Guido Almosera on Uli-Uli Street, where he saw Joseph Karunungan, Rico Sison, Eric Marquez and Henry Ponce.

The group was initially engaged in light conversation until Guido Almosera brought out some liquor while they were playing the guitar. Ubales stayed with the group until 10 p.m., when he left for Sta. Mesa to go to the house of a certain Alex to meet a man named Boy. He arrived at Alex's house at around 11 p.m., but left immediately when he learned that Boy was already asleep. Along the way, he saw Mark who had been having a drinking spree with other persons. He decided to join the group for a while before returning home.

At around 12 midnight, Ubales bade leave to go home. Mark went along with him to the place where he could get a ride home. They parted ways and Ubales got on a jeep which he rode to J.P. Laurel Street. He stopped by a 7-Eleven convenience store and bought something to eat before proceeding home.

On the way home, Ubales saw the group of Guido Almosera still having drinks. He decided to join them again until around 1 a.m. of 17 October 2001.

Ubales testified that although he is a former policeman, he no longer had a gun and that his sidearm is in the custody of the WPD. He stated further that he was arrested without a warrant.

The defense also presented the testimonies of Guido Almosera and Henry Norman Ponce. Both witnesses essentially corroborated the testimony of Ubales that he was with their group from 7 p.m. to 10 p.m. on 16 October 2001 and then from around 12:30 a.m. to 2 a.m. of 17 October 2001.

Ubales' sister, Irene Riparip, testified that her brother was at their home until around 7:00 p.m. on 16 October 2001, and he returned around 1 a.m. in the morning of 17 October 2001. She stated that Ubales did not leave the house after he returned because she stayed awake until 4 a.m.

On 20 July 2004, the Regional Trial Court rendered its Decision finding Angel Ubales guilty of the crime of homicide, as follows:

WHEREFORE, the prosecution having established the guilt of the accused beyond reasonable doubt, judgment is hereby rendered CONVICTING the accused as principal in the crime of homicide and he is sentenced to suffer the indeterminate penalty of ten (10) years of Prison Mayor as minimum, to fourteen (14) years, eight (8) months and one (1) day medium of Reclusion Temporal, as maximum.

The accused is also ordered to pay the heirs of the offended party the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P8,000.00 as actual damages.[3]

On 28 July 2004, the trial court issued an Order giving provisional liberty to Ubales provided the bonding company agrees to the extension of the bond. On 30 July 2004, the bonding company manifested its assent to continue its undertaking as bondsman for Ubales during the pendency of his appeal. Ubales appealed to the Court of Appeals. The case was docketed thereon as CA-G.R. CR No. 28813. On 30 November 2006, the Court of Appeals rendered its Decision affirming with modification the Decision of the Regional Trial Court, as follows:

WHEREFORE, premises considered, the Decision of the Regional Trial Court of Manila, Branch 33 in Criminal Case No. 01-196713 finding the accused-appellant Angel Ubales y Velez guilty of the crime of Homicide is AFFIRMED with MODIFICATION. The heirs of the victim Mark Tanglaw Santos are further awarded the amount of P25,000.00 as temperate damages.[4]

Hence, this Petition, where Ubales presents the following issues for our consideration:

I

WHETHER OR NOT THE EVIDENCE FOR THE PROSECUTION PROVES THAT PETITIONER COMMITTED THE CRIME CHARGED BEYOND REASONABLE DOUBT.

II

WHETHER OR NOT THE ADDITIONAL AWARD OF TWENTY-FIVE THOUSAND PESOS (PHP25,000.00) AS TEMPERATE DAMAGES IS IN ACCORD WITH LAW AND THE RELEVANT DECISIONS OF THE HONORABLE SUPREME COURT.[5]

Petitioner Ubales claims that the prosecution has failed to prove his guilt beyond reasonable doubt, and the Court of Appeals had erred in giving credence to Galvan's testimony which allegedly defies common experience.

After a meticulous review of the records of the case at bar, we are constrained to agree with petitioner Ubales.

Petitioner Ubales was arrested on 25 October 2001, eight days after Mark's body was found. Ubales' arrest was made by SPO2 Rosales Fernandez at the insistence of Laila Cruz, who approached SPO2 Fernandez for assistance in apprehending Ubales. Up to the time of this arrest, the only piece of evidence which remotely links Ubales to the killing of Mark Santos is the recovery of a gun resembling a gun allegedly seen by Laila Cruz in his (Ubales') possession the night Mark was killed. This gun found several meters away from where Mark's body was found but was never identified as the gun where the bullet that killed Mark came from. All that the forensic firearm examiner testified to about this gun was that this is a .38 caliber paltik revolver with three bullets and one empty shell. The slug found in the head of Mark was never subjected to a ballistic examination, either.

It was at this point, when Angel Ubales had already been arrested despite the lack of evidence clearly linking him to the crime, that Mark Santos' best friend, balut vendor Eduardo Galvan, appeared and executed a sworn statement that he was an eyewitness to the killing of Mark Santos. He proceeded to identify Angel Ubales without the benefit of a police line-up. Thereafter, he became the star witness in the prosecution of Angel Ubales.

In order to illuminate the analysis of Eduardo Galvan's testimony against Angel Ubales, we reproduce its relevant portions as follows:

Q:

On October 17, 2001 at about 3:00 in the morning, did you sell your balut?

A:

Yes, sir.

Q:

At that time in what place were you?

A:

Near Malacañang.

Q:

What is the name of the street?

A:

I forgot the name of the street.

ATTY. MORALES:

Q:

Can't you recall the name of the street?

WITNESS:

A:

Yes, sir.

Q:

You said the street near Malacañang?

A:

Yes, sir.

Q:

Now while selling balut near Malacañang, have you witnessed an incident?

A:

Yes, sir.

Q:

What is that incident?

A:

A quarrel.

Q:

Who was quarrelling at that time?

A:

Angel.

Q:

And who?

A:

Mark.

Q:

What is the surname of Mark?

A:

I forgot the surname but the name is Mark.

Q:

How about Angel, what is the surname of Angel?

A:

I cannot recall the surname.

Q:

If Angel is inside the courtroom will you please go down and approach him and point to him?

A:

(witness tap shoulder of a person who when asked his name answered Angel Ubales)

Q:

Now you said there was a quarrel between Angel and Mark. Where were you when you saw them quarreling, how far were you from them?

A:

About one (1) meter more or less.

Q:

How long did they quarrel?

A:

About three (3) minutes.

Q:

After three (3) minutes what happened?

A:

Angel suddenly drew something.

Q:

What is that something that Angel drew?

A:

Gun, sir, a shining gun.

ATTY. GARENA:

May we put on record that witness is demonstrating his hand pulling a gun pointing upward.

ATTY. MORALES:

Q:

From where did he pull the gun?

WITNESS:

A:

From his right waist and shot.

Q:

After Angel pulled out a gun what did he do?

COURT:

He said he fired.

ATTY. MORALES:

What did he do with the gun when he pulled it out from his waist?

A:

Shot and hit the victim.

Q:

Whom he shot?

A:

Mark.

Q:

What part of the body was hit by the bullet?

A:

Forehead.

Q:

How many times was Mark shot by Ubales?

A:

Only once.

Q:

What happened to Mark after he was shot?

A:

He fell to the ground.

ATTY. MORALES:

Q:

How far were you from these two (2) people Angel and Mark when Angel shot Mark?

WITNESS:

A:

Only one (1) meter away, I was near the flower box.

Q:

You said that it was 3:00 o'clock in the morning when the incident happened?

A:

Yes, sir.

Q:

And what is the condition of the place, what (sic) it dark or bright?

A:

It was lighted.

Q:

Why (sic) is the place?

A:

There was a light there.

Q:

What kind of light was there?

A:

There is an electric bulb.

Q:

How far were these two people referring to Mark and Angel Ubales when Angel Ubales shot Mark?

A:

About one (1) meter away.

COURT:

Q:

Facing each other?

WITNESS:

A:

Yes, Your Honor.

ATTY. MORALES:

Q:

How about the light, how far is the light from Mark Ubales?

A:

About one (1) arm length.

Q:

You said that after Ubales shot Mark he fell down, what happened to Ubales?

A:

He ran away.[6] (Emphasis supplied.)

In the assessment of the testimonies of witnesses, this Court is guided by the rule that for evidence to be believed, it must not only proceed from the mouth of a credible witness, but must be credible in itself such as the common experience of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony except its conformity to our knowledge, observation, and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of juridical cognizance.[7]

Since the alleged eyewitness was the best friend and acquaintance of the victim since childhood, Galvan's testimony pointing to the accused as the perpetrator must be subjected to a rigid test which should demonstrate beyond cavil his truthfulness, honesty and rectitude as actual eyewitness to the perpetration of the criminal act.[8] Galvan's account is nowhere probable under the circumstances. As argued by the defense, there can be only two ways by which Galvan could have witnessed the altercation based on his testimony that he saw the whole thing within one meter from him. First, Galvan walked towards the protagonists and stopped within one meter from them during their three minutes of altercation. Second, Galvan was already at the place where he saw the protagonists, who walked towards him, and stopped within one meter from him to engage in their quarrel.

Upon further inquiry from Judge Romulo Lopez, the judge who had heard the testimony of Galvan, but not the one who penned the RTC Decision, we learned from Galvan that it was the first of the two options: he was walking from the checkpoint at Malacañang towards Legarda Street before the incident.

At the onset, we can easily see that Galvan's version of the facts raises very serious questions. Why would Eduardo Galvan, a 65-year old man, stop one meter away from two quarreling men at the very dangerous hour of 3 a.m. and stay there to watch for three minutes as if what he was witnessing is a movie scene? How come neither Angel Ubales, nor Galvan's best friend, Mark, acknowledge Galvan's presence for the entire three minutes that they were all were barely one meter from each other, and in a well-illuminated place at that? After Angel Ubales ran away following his shooting of Mark, why did Galvan simply leave his bloodied best friend to die on the pavement? We should take note that Eduardo Galvan could not claim to be afraid at this point, as he had already seen Angel Ubales flee.

Furthermore, since it took an hour after the killing before the presence of the dead body of Mark Santos was reported to the police, it can fairly be assumed that if Galvan's version of the facts were true, there were no other people at the scene of the crime. Why was Galvan selling balut at a place with no pedestrian traffic at 3 a.m.?

In reading Eduardo Galvan's testimony, it is hard to ignore how he seemed not to remember a lot of things about the places involved in his testimony:

COURT:

Q:

How far is the place of the incident from the house of Mark?

A:

I cannot estimate how far is the place of the incident and the house of Mark.

Q:

When you sell ballot, what time do you start?

A:

From 8:00 o'clock in the evening up to 3:00 o'clock in the morning.

Q:

How do you conduct your vending of balot?

A:

I sell.

Q:

Where do you get your balot?

A:

It was only delivered to me.

Q:

Where?

A:

In the house of my friend.

Q:

Where is that house of your friend located?

A:

Palawan St.

Q:

Where is that Palawan St.

A:

Balik - Balik.

Q:

From Palawan St. to Balic-balic, you start selling from 8:00 o'clock in the evening, how many balot have you sold?

A:

About thirty (30) pieces.

Q:

From your house how far was that place of the incident?

A:

I cannot estimate.

ATTY. GARENA:

How many blocks from your house?

A:

I cannot estimate, I just walk and walk.

Q:

On October 17, 2001 when was the first time on October 17, 2001 you saw Mark the victim?

A:

In the evening.

COURT

What time?

A:

About 3:00 o'clock in the morning.

ATTY. GARENA:

That was the first time you saw Mark?

A:

3:00 o'clock in the morning.

Q:

From where did you get the balot that night?

A:

I do not know the owner of the balot, it was just delivered to me.

Q:

From your friend?

A:

Yes, sir.

Q:

What is the name of your friend?

A:

I cannot remember, sir.

COURT:

Do you remember the place where this friend of yours resides when you took the balot that night?

A:

I cannot remember.

Q:

How many balot?

A:

40 pieces of balot.

Q:

And you started selling from 8:00 o'clock in the evening to 3:00 o'clock in the morning?

A:

Yes, your Honor.

Q:

How many pieces have you sold when the incident occurred?

A:

About 15 pieces.

Q:

Describe the vicinity of the place where you took the balot?

A:

I cannot remember.

Q:

Prior to that night when you took 40 pieces of balot, you have been frequenting the place because you used to get your balot there?

A:

The balot was delivered to me.

Q:

By your friend?

A:

Yes, your Honor.

Q:

So you are changing your previous statement that you took the balot from the place of your friend?

A:

When I went to the place.

Q:

Since when you started selling balot which you get from that place?

A:

About one year.

Q:

Now Mr. Witness, you said you know Mark the victim since childhood, is that correct?

A:

Yes, sir.

Q:

How about the parents of Mark, do you know them?

A:

Yes, sir.

Q:

How about the sisters and brothers, do you know them?

A:

Yes, sir.

Q:

What is the name of Mark's father?

A:

I don't know but I know his face.

Q:

How about the mother?

A:

Also I know her by face.

Q:

How many brothers has this Mark?

A:

I do not know Your Honor.

Q:

You also do not know if he has sister?

A:

He has sister how many I do not know Your Honor.

Q:

When you know Mark since childhood, do you know if he is attending school?

A:

Yes, Your Honor.

Q:

Where?

A:

I do not know the school.

Q:

You also do not know what he finished?

A:

I do not know.

Q:

Mr. Witness, on October 17, 2001 at about 3:30 in the morning prior to that time where have you been?

A:

I came from Legarda.

Q:

Did you pass by Mendiola?

A:

Yes, sir.

Q:

In Mendiola that is the time you are vending balot?

A:

Yes, sir.

Q:

You usually shout balot?

A:

Yes, sir.

Q:

That is from Mendiola to Malacañang?

A:

Yes, sir.

Q:

What time you were in Mendiola at that time?

A:

I cannot tell the time I was just walking.

Q:

Were there still so many people in Mendiola at that time?

COURT

He do not know the exact place.

ATTY. GERANA:

That is why I am asking leading question to the witness Your Honor.

COURT:

Do you know the gate of Malacañang?

A:

Yes, Your Honor.

Q:

What gate is nearer to the place where Mark was shot?

A:

I cannot remember the gate.

Q:

There are schools along Mendiola proceeding towards gate 1 or gate (sic). Which school is near to the place where Mark was shot?

A:

I cannot remember because it was night time.

Q:

But you used to sell balot along Mendiola going to the gate of Malacañang?

A:

Yes, Your Honor.

Q:

So you are familiar with the schools along Mendiola?

A:

I do not know the schools.

ATTY. GERENA:

Do you know St. Jude Church?

A:

No, sir.

Q:

You also do not know the hospital in front or opposite St. Jude church?

A:

No, sir.

Q:

Facing Malacañang, do you know the first street by the right side facing Malacañang?

A:

Gate 1.

Q:

I am asking you facing the gate of Malacañang, do you know the first street in the right when you are standing at Mendiola?

A:

No, sir.[9]

The original judge himself, Judge Romulo Lopez, does not seem impressed with the testimony of Eduardo Galvan. Judge Romulo Lopez asked several clarificatory questions in order to test Galvan's credibility, and Galvan failed the test miserably. Eduardo Galvan repeatedly changed his answer on whether he told anyone about the incident before he executed his statement with the police station:

COURT:

Q:

Under what circumstance were you able or you were make to execute your statement?

A:

I went to the police station myself.

Q:

What what (sic) reason do you have when you voluntarily went to the police station?

A:

Because I was bothered by my conscience.

Q:

That was the first time you narrated?

A:

Yes, Your Honor.

Q:

So you are impressing the Court that from the time you saw Mark due to the shooting fall to the ground you did not relay the story you saw to any person?

A:

None, Your Honor.

Q:

Despite the fact that you were neighbor of Mark and his family you did not relay the incident to Mark's parents?

A:

On the following day I narrated it to them the incident.

Q:

The following day you were not brought by Mark's parents to the police station to give your statement?

A:

No, Your Honor.

Q:

There was a wake following that in the residence of Mark?

A:

No, Your Honor.

Q:

Where was the wake held?

A:

The wake was held at the Arlington.

Q:

Did you attend the wake?

A:

Yes, Your Honor.

Q:

Did you talk to a member of Mark's family in the wake?

A:

No, Your Honor.[10]

Upon reading Galvan's testimony, we do not find the same sufficient to prove Ubales' guilt beyond any reasonable doubt. While the correctness of a Decision is not impaired solely by the fact that the writer took over from a colleague who had earlier presided at trial, it is the bounden duty of appellate courts to even more closely examine

the testimonies of the witnesses whose deportment the writer was not able to observe.

The prosecution seeks to establish Ubales' motive in killing Mark by the alleged altercation between the two during their drinking spree. However, as testified by Laila Cruz herself, the argument was soon apparently resolved, with Ubales patting the shoulders of Mark Santos.

Furthermore, in both versions of the facts, Mark had been gracious enough to accompany Ubales after their carousal, clearly showing that whatever misunderstanding they had during their drinking spree was already resolved. If Galvan's version of the facts is to be believed, Ubales and Mark had even been together for a several hours more before Mark was killed. We have ruled that though the general rule is that motive is not essential to a conviction especially where the identity of the assailant is duly established by other competent evidence or is not disputed, the absence of such motive is important in ascertaining the truth as between two antagonistic theories or versions of the killing.[11] Proof as to motive is essential when the evidence on the commission of the crime is purely circumstantial or inconclusive.[12] Verily, the dominating rule is that, with respect to the credibility of witnesses, this Court has always accorded the highest degree of respect to the findings of the trial court, unless there is proof of misappreciation of evidence - which is precisely the situation in the case at bar.

We also take note of petitioner Ubales' stance when he was confronted by Laila Cruz and SPO2 Fernandez. Ubales told SPO2 Fernandez that he would voluntarily join him to prove to him that he was not in hiding. Ubales then cooperated fully with SPO2 Fernandez, allowing himself to undergo a medical examination, which apparently yielded nothing as the findings thereof was not presented as evidence, and going with the SPO2 Fernandez to the PNP Malacañang Field Force. Flight evidences guilt and guilty conscience: the wicked flee, even when no man pursues, but the righteous stand fast as bold as a lion.[13] In all, we find it hard to lend credence to the testimony of the lone alleged eyewitness.

We have said that it is better to acquit ten guilty individuals than to convict one innocent person.[14] Every circumstance against guilt and in favor of innocence must be considered.[15] Where the evidence admits of two interpretations, one of which is consistent with guilt, and the other with innocence, the accused must be given the benefit of doubt and should be acquitted.[16] In the instant case, while it is possible that the accused has committed the crime, there is also the possibility, based on the evidence presented, that he has not. He should be deemed to have not for failure to meet the test of moral certainty. Finally, an accused should not be convicted by reason of the weakness of his alibi. It is fundamental that the prosecution must prove its case beyond reasonable doubt and must not rely on the weakness of the evidence of the defense.[17] Since there are very serious doubts in the testimony of the lone eyewitness to the killing of Mark Santos, we have no choice but to acquit petitioner Angel Ubales on the ground of reasonable doubt.

Having ruled that the prosecution has failed to prove the guilt of petitioner beyond a reasonable doubt, the second issue, which relates to the temperate damages which petitioner would have been liable for had he been found guilty, is now mooted.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR No. 28813 dated 30 November 2006 is REVERSED and SET ASIDE. Petitioner Angel Ubales y Velez is hereby ACQUITTED of the crime of homicide on account of reasonable doubt.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio,[*] Azcuna,**] Chico-Nazario, and Brion,[***] JJ., concur.

[*] Per Special Order No. 531, dated 20 October 2008, signed by Acting Chief Justice Leonardo A. Quisumbing, designating Associate Justice Antonio T. Carpio to replace Associate Justice Ma. Alicia Austria-Martinez, who is on leave.

[**] Per Special Order No. 521, dated 29 September 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justice Adolfo S. Azcuna to replace Associate Justice Ruben T. Reyes, who is on official leave.

[***] Associate Justice Arturo D. Brion was designated to sit as additional member replacing Associate Justice Antonio Eduardo B. Nachura per Raffle dated 22 October 2008.

[1] Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Andres B. Reyes, Jr. and Hakim S. Abdulwahid concurring. Rollo, pp. 18-40.

[2] Records, p. 1.

[3] Id. at 45.

[4] Id. at 39.

[5] Id. at 96.

[6] TSN, 22 January 2002, pp. 4-9.

[7] *People v. Mala*, 458 Phil. 180, 193 (2003).

[8] *People v. Delmendo*, 196 Phil. 121, 140 (198).

[9] TSN, 22 January 2002, pp. 14-22.

[10] Id. at 23-25.

[11] *People v. Boholst- Caballero*, 158 Phil. 827, 840 (1974).

[12] *People v. Aniel*, 185 Phil. 122, 132-133 (1980).

[13] *People v. Acosta, Sr.*, 444 Phil. 385, 415 (2003), citing *People v. Rabanal*, 402 Phil. 709, 717 (2001); *People v. Gregorio*, 325 Phil. 689, 706 (1996).

[14] *Reyes v. Court of Appeals*, 335 Phil. 206, 217 (1997).

[15] *People v. Clores*, 210 Phil. 51, 59 (1983).

[16] *People v. Mijares*, 358 Phil. 154, 166 (1998).

[17] *People v. Tabayoyong*, 192 Phil. 234, 256-257 (1981).

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