

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOLORICO GUILLERA Y ALGORDO AND GARY GUILLERA Y ALGORDO, APPELLANTS.

G.R. No. 175829. March 20, 2009

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the Decision[1] of the Court of Appeals dated September 27, 2006 in CA-G.R. CR-H.C. No. 01522, affirming with modification the Decision[2] dated June 24, 2005 of the Regional Trial Court of Malolos, Bulacan, Branch 11 in Criminal Case No. 1790-M-2002. The trial court had convicted appellants Dolorico A. Guillera and Gary A. Guillera of murder, sentenced them to suffer the penalty of reclusion perpetua, and ordered them to pay the heirs of Enrique S. Hernandez, P60,000 as civil liability, P50,000 as moral damages and P70,000 as actual damages.

In an Information[3] dated June 18, 2002, herein appellants Dolorico A. Guillera and Gary A. Guillera, together with one Francisco A. Guillera (who remains at large), were indicted as follows:

x x x x

That on or about the 29[th] day of March, 2002, in the municipality of Doña Remedios Trinidad, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a jungle bolo and with intent to kill Enrique Hernandez y Sta. Ana, with evident premeditation and treachery, conspiring, confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack, assault, hack and stab the said Enrique Hernandez y Sta. Ana, hitting him on the different parts of his body thereby inflicting upon him serious physical injuries which directly caused the death of the said Enrique Hernandez y Sta. Ana.

Contrary to law.[4]

During their arraignment, appellants pleaded not guilty. Thereafter, trial ensued.

Geraldine A. Hernandez, widow of the victim Enrique S. Hernandez, was presented as the lone witness by the prosecution.

Geraldine testified that she and her husband, Enrique, owned a farm in Sitio Pacot, Brgy. Kalawakan, Doña Remedios Trinidad, Bulacan. On March 29, 2002, at around 6:00 p.m., while they were walking around their garden, they saw appellants and Francisco, all armed with jungle bolos, removing the wire fence that enclosed their farm. Enrique approached the three men who were uphill while she stayed behind at a distance of about 10 meters. He then asked them why they were removing the wire fence. Dolorico replied that they would not allow the wire fence to remain there. Upon hearing this, Enrique turned his back and moved away from them. Dolorico suddenly hacked Enrique on his nape. Enrique fell face down. Then Gary hit him on his right thigh, waist and left hand, while Francisco stabbed him three times at the back.[5]

Geraldine added that she hid amid the trees and tall grasses. After assaulting her husband, the three men looked

for her. Unable to find her, they fled. She then hurriedly went home and called her brother and son who accompanied her back to the crime scene. Thereafter, they returned home while her father reported the incident to the police authorities. The police authorities put up a checkpoint, leading to Dolorico's arrest that night. They recovered Enrique's body only at around 2:00 a.m. of the following day.[6]

For the defense, appellants themselves testified.

Dolorico testified that on March 29, 2002, he was in their house in Sibul Spring, San Miguel, Bulacan, taking care of his sick child. At around 9:00 p.m., he went out to buy medicine but he was arrested and brought to the police station as a suspect in the killing of Enrique.[7]

Dolorico claimed that the crime scene was far and required a four-hour walk from his house. He added that although they were adjacent lot owners, he had no boundary dispute with Enrique.[8]

Gary testified that on March 29, 2002, he was in Mugo, Cagayan. He had been working in a construction project in the said area for almost a year.[9] On November 11, 2002,[10] he was arrested by the police authorities while he was visiting his parents in Sibul Spring, San Miguel, Bulacan.

Gary added that it would take one and a half days to reach Sibul Spring, San Miguel, Bulacan from Mugo, Cagayan by means of public transportation and vice versa.[11]

In support of his defense, Gary presented Thelma Magalad, a vendor at the construction project and his neighbor in Tuau, Cagayan. Thelma testified that Gary never left the place from January to October 2002.[12] However, after giving her direct testimony, Thelma failed to appear in court for cross-examination. Consequently, the trial court ordered her direct testimony deleted from the records.

On June 24, 2005, the trial court rendered a decision finding appellants guilty as charged. It gave full faith and credit to Geraldine's account for the following reasons: First, her testimony that she was with Enrique before he was assaulted was uncontroverted. She was only 10 meters away when the three men assaulted Enrique, and her opportunity to witness the assault was not impugned. Second, she was candid, straightforward, firm and unwavering in her testimony despite the grueling cross-examination by the defense counsel.[13]

The trial court ruled that Geraldine's relationship to Enrique did not automatically impair her credibility nor did it render her testimony less worthy of credence. On the contrary, her credibility was further enhanced by the apparent lack of improper motive on her part to testify falsely against appellants. Moreover, her categorical declarations and positive identification of appellants prevail over their defense of alibi.

The trial court noted that treachery was present since Enrique was attacked from behind leaving him in no position to defend himself. There was also conspiracy as evidenced by appellants' concerted attack on Enrique one after the other, which indicated a joint purpose and concurrence of intent to kill him.

The decision disposed as follows:

WHEREFORE, this Court finds the herein accused, Dolorico Guillera and Gary Guillera, GUILTY beyond reasonable doubt of the crime of Murder under Article 248 of the Revised [P]enal Code as amended and hereby sentences both accused to a prison term of Reclusion Perpetua and to pay jointly and severally the heirs of the late Enrique Hernandez the following sums of money, to wit:

- P60,000.00 as civil liability;
- P50,000.00 as moral damages; and
- P70,000.00 as actual damages.

The case against Francisco Guillera is hereby ARCHIVED.

SO ORDERED.[14]

On September 27, 2006, the Court of Appeals affirmed with modification the trial court's decision. It held that to be valid for purposes of exoneration from a criminal charge, the claim of alibi must be such that it would have been physically impossible for the person charged with the crime to be at the locus criminis at the time of its commission since no person can be in two places at the same time. In this case, the records are bereft of any evidence that would support appellants' claim of alibi. Dolorico failed to present any witness who could have vouched for his presence at his house when the crime was committed. The least he could have done was to present his wife whom he claimed was the one who asked him to buy medicine for their sick child. On the other hand, while Gary presented Thelma Magalad, her direct testimony was deleted from the records for her failure to appear in court for cross-examination. Even if her direct testimony were considered, it still failed to account for Gary's whereabouts on March 29, 2002.

The appellate court also ruled that relationship strengthens the witnesses' credibility since it is unnatural for an aggrieved relative to falsely accuse someone other than the actual culprit. Where there is no evidence and nothing to indicate that the principal witnesses for the prosecution were actuated by improper motive, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit.

The dispositive portion reads as follows:

WHEREFORE, the appealed Decision is hereby AFFIRMED with the MODIFICATION as to the award of civil liability which is hereby reduced to Fifty Thousand (Php50,000.00) Pesos.

SO ORDERED.[15]

Aggrieved, appellants elevated their case to this Court. Both appellants and the Office of the Solicitor General (OSG) dispensed with the filing of supplemental briefs. Thus, we shall review the instant case based on the following errors raised before the appellate court:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II.

THE TRIAL COURT GRAVELY ERRED IN NOT GIVING CREDENCE TO THE DEFENSE OF ALIBI INTERPOSED BY THE DEFENSE.[16]

Simply put, the pivotal issue is: Did the trial court err in not giving credence to appellants' defense of alibi?

Appellants fault the trial court for relying heavily on Geraldine's testimony. They allege that nothing in Geraldine's testimony would show that they had an argument with Enrique. It was thus incredible for them to attack and kill Enrique just because he inquired why they were removing the wire fence. Moreover, Geraldine testified that they were uphill while she stayed behind at a distance of about 10 meters. She was also amid the trees and tall grasses in addition to the fact that it was then around 6:00 p.m. It was therefore possible that her vision had been impaired and she did not really witness the actual killing. Finally, it was unusual that Geraldine should go home to ask for assistance instead of proceeding to the place where Enrique was attacked to determine his condition.

In addition, appellants contend that Dolorico clearly established that he never left his house on March 29, 2002

since he was busy taking care of his sick child. It was only at around 9:00 p.m. when he went out to buy medicine. Besides, the crime scene was far and required a four-hour walk from his house. Meanwhile, Gary satisfactorily proved that on March 29, 2002, he was in Mugo, Cagayan. Thelma Magalad confirmed that Gary never left Mugo, Cagayan from January to October 2002.

The OSG counters that the pivotal issue presented by appellants revolved on the credibility of witnesses. It asserts that when it comes to the issue of credibility, the trial court's assessment is entitled to great weight, even considered final, conclusive and binding, if not tainted with arbitrariness or oversight of some facts or circumstances of weight and influence. In this case, the trial court gave full faith and credence to Geraldine's testimony that positively identified appellants as the perpetrators of the crime. She testified with spontaneity and consistency in a simple and straightforward manner. Appellants have not shown any circumstance to indicate that Geraldine was actuated by improper motive to testify falsely against them.

The OSG adds that Geraldine's positive assertions concerning appellants' participation in the crime far outweigh their protestations claiming an alibi. For alibi to be credible, the accused must not only prove his presence at another place at the time of the commission of the crime, but he must also demonstrate that it was physically impossible for him to be at the crime scene at the time of the alleged offense.

Needless to stress, we have consistently adhered to the rule that where the culpability or innocence of an accused hinges on the issue of the credibility of witnesses, the findings of fact of the Court of Appeals affirming those of the trial court, when duly supported by sufficient and convincing evidence, must be accorded the highest respect, even finality, by this Court and are not to be disturbed on appeal.[17] Appellants have not shown any cogent reason why we should reverse the findings of both courts below. Their petition must, therefore, fail.

This Court has no reason to doubt Geraldine's testimony. She recounted the details of the killing in a manner reflective of honest and unrehearsed testimony. Her candid, straightforward, firm and unwavering account was free of significant inconsistencies, unshaken despite a grueling cross-examination. That she witnessed the killing, although she was amid the trees and tall grasses 10 meters downhill from Enrique and the three men and it was then around 6:00 p.m., is undisputed. Her account of how and where Enrique was attacked was corroborated by the medico-legal report[18] showing the injuries sustained by Enrique at his nape and other parts of his body.

Neither did Geraldine's relationship with Enrique impair her credibility since it is a basic precept that relationship per se of a witness with the victim does not necessarily mean that the witness is biased. Close or blood relationship alone does not, by itself, impair a witness' credibility.[19] On the contrary, it could even strengthen the witness' credibility, for it is unnatural for an aggrieved relative to falsely accuse someone other than the actual culprit. Their natural interest in securing the conviction of the guilty would deter them from implicating a person other than the true offender.[20]

Moreover, appellants failed to show that Geraldine was actuated by ill motive to testify falsely against them. When there is no showing of any improper motive on the part of the prosecution witness to testify falsely against an accused, the logical conclusion is that no such improper motive exists and that the testimony is worthy of full faith and credence.[21]

Juxtaposed against the prosecution's positive identification of the malefactors, appellants' defense of alibi crumbles. As we consistently held, alibi is the weakest of all defenses because it is easy to concoct and difficult to disprove.[22] For alibi to prevail, clear and satisfactory proof must be shown that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that he was somewhere else.[23]

In this case, the element of physical impossibility is absent.[24] Dolorico failed to present any witness who could vouch that he never left his residence on March 29, 2002. Thus, although the crime scene was far and required a four-hour walk from his house, his presence thereat is still quite possible. On the other hand, while Gary presented a witness who testified that he was in Mugo, Cagayan from January to October 2002, her direct testimony was deleted from the records. Even if we could consider said testimony, such witness failed to vouch for his presence in Mugo, Cagayan on March 29, 2002.

In sum, we are convinced beyond a shadow of doubt that appellants are guilty for the murder of Enrique S. Hernandez. However, we note that the claim of P70,000 as actual damages is supported merely by a list of expenses instead of official receipts.[25] A list of expenses cannot replace receipts when the latter should have been issued as a matter of course in business transactions.[26] Neither can the mere testimony of Geraldine on the amount she spent suffice. It is necessary for a party seeking an award for actual damages to produce competent proof or the best evidence obtainable to justify such award.[27] Nonetheless, in the absence of substantiated and proven expenses relative to the wake and burial of Enrique, temperate damages in the amount of P25,000 shall be awarded to his heirs, since they clearly incurred funeral expenses.[28]

WHEREFORE, the appeal is DISMISSED. The Decision dated September 27, 2006, of the Court of Appeals in CA-G.R. CR-H.C. No. 01522 which affirmed with modification the Decision dated June 24, 2005, of the Regional Trial Court of Malolos, Bulacan, Branch 11 in Criminal Case No. 1790-M-2002, is AFFIRMED with the modification that appellants Dolorico A. Guillera and Gary A. Guillera are ordered to pay jointly and severally P25,000 as temperate damages instead of P70,000 as actual damages.

Costs de officio.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Peralta,[*] JJ., concur.

[*] Designated member of Second Division per Special Order No. 587 in place of Associate Justice Arturo D. Brion who is on leave.

[1] Rollo, pp. 2-16. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Rebecca De Guia-Salvador and Ramon R. Garcia concurring.

[2] Records, pp. 151-153. Penned by Judge Basilio R. Gabo, Jr.

[3] Id. at 2-3.

[4] Id. at 2.

[5] TSN, September 11, 2002, pp. 10-14; TSN, September 25, 2002, pp. 42-43.

[6] TSN, September 11, 2002, pp. 14-17.

[7] TSN, January 7, 2004, p. 49.

[8] Id. at 50-51.

[9] TSN, March 10, 2004, pp. 55-56.

[10] Rollo, p. 5.

[11] TSN, March 10, 2004, p. 57.

- [12] TSN, June 17, 2004, p. 66.
- [13] Records, p. 152.
- [14] Id. at 153.
- [15] Rollo, p. 16.
- [16] CA rollo, p. 36.
- [17] *Siccuan v. People*, G.R. No. 133709, April 28, 2005, 457 SCRA 458, 463-464.
- [18] Records, p. 23.
- [19] Cf. *Tadeja v. People*, G.R. No. 145336, July 21, 2006, 496 SCRA 157, 165.
- [20] *Velasco v. People*, G.R. No. 166479, February 28, 2006, 483 SCRA 649, 667-668; *People v. Nicolas*, G.R. No. 137782, April 1, 2003, 400 SCRA 217, 224.
- [21] *Tadeja v. People*, supra at 165-166; *People v. Celis*, G.R. Nos. 125307-09, October 20, 1999, 317 SCRA 79, 92.
- [22] *People v. Borbon*, G.R. No. 143085, March 10, 2004, 425 SCRA 178, 187; *People v. Caraang*, G.R. Nos. 148424-27, December 11, 2003, 418 SCRA 321, 349.
- [23] *People v. Balleras*, G.R. No. 134564, June 26, 2002, 383 SCRA 439, 446; *People v. Del Valle*, G.R. No. 119616, December 14, 2001, 372 SCRA 297, 306.
- [24] *People v. Tolentino*, G.R. No. 139351, February 23, 2004, 423 SCRA 448, 466; *People v. Sicad*, G.R. No. 133833, October 15, 2002, 391 SCRA 19, 32.
- [25] TSN, September 25, 2002, pp. 39-41; Records, pp. 25-31.
- [26] *People v. Buenavidez*, G.R. No. 141120, September 17, 2003, 411 SCRA 202, 209-210; *People v. Hate*, G.R. No. 145712, September 24, 2002, 389 SCRA 578, 586.
- [27] *People v. Baño*, G.R. No. 148710, January 15, 2004, 419 SCRA 697, 707; *People v. Alfon*, G.R. No. 126028, March 14, 2003, 399 SCRA 64, 74.
- [28] *People v. Baño*, id.

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