

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RACHEL ANGELES Y NAVAL ALIAS RUSSEL ANGELES Y CABAL, APPELLANT.

G.R. No. 177134. August 14, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

His conviction for murder by the Regional Trial Court of Manila, Branch 18 in Criminal Case No. 98-167500 having been affirmed with modification by the Court of Appeals by Decision of May 15, 2006,[1] Rachel Angeles y Naval alias Russel Angeles y Cabal (appellant) lodged the present appeal.

The Information against appellant reads:

That on or about September 1, 1998, in the City of Manila, Philippines, conspiring and confederating with another whose true name, identity and present whereabouts[s] are still unknown and helping each other, did then and there wil[l]fully, unlawfully and feloniously, with intent to kill and with evident premeditation and treachery, attack, assault and use personal violence upon one MICHAEL COLIGADO Y TARRAYO[2] by then and there stabbing the latter with a bladed weapon hitting him on the left side of the trunk, thereby inflicting upon the said Michael Coligado y Tarrayo mortal stab wound which was the direct and immediate cause of his death.[3] (Underscoring supplied)

Oddly, while appellant was alleged to have conspired with one whose whereabouts were "still unknown," the "John Doe" was not impleaded as accused.

From the testimonies of prosecution witnesses Antonio Aguilar (Aguilar) and Jonathan V. Carpio (Carpio) and the Medico-Legal Report of the autopsy of the victim containing the following:

POSTMORTEM FINDINGS:

x x x x

HEAD AND TRUNK:

1. Scalp hematoma, occipital region, measuring 6x5 cm, bisected by the posterior midline.
2. Stab wound, left mammary region, measuring 2.7 cm long with 3 stitches applied 17.5cm from the anterior midline, 15 cm deep, directed posteriorwards, downwards and medialwards, passing thru the 4[th] intercostals space, piercing the upper lobe of the left lung, pericardial sac and heart.

x x x x

CONCLUSION:

Cause of death is hemorrhagic shock as a result of a stab wound of the trunk.

(Underscoring supplied),

the following version of the prosecution is culled:

At around 11:45 p.m. of September 1, 1998, while prosecution witness Aguilar was driving his tricycle along Batanes St., Sampaloc, Manila behind another tricycle driven by Michael Colligado (the victim) bearing appellant and an unidentified companion, the victim's tricycle stopped at the corner of Tomas Pinpin and Batanes Streets.

After Aguilar's tricycle passed by the victim's tricycle, he (Aguilar) made a "U-turn" upon which he heard the victim and appellant arguing about the fare. While appellant was standing on the left side of the victim and his companion was holding the victim's hands, appellant stabbed the victim near his armpit causing him to fall down. Appellant and his companion immediately fled, passing by Carpio, also a tricycle driver.

Aguilar, with the help of people in the vicinity, immediately brought the victim to the United Doctors Medical Center where he died at the Emergency Room.[4]

As Carpio saw appellant holding a knife, he went inside the nearby house of appellant's aunt and told her what he had witnessed. The aunt who was then busy playing "tong-its" was unmoved, however. Carpio thus left and proceeded to the nearby basketball court where he learned from the people there that someone had been stabbed.[5]

On the other hand, appellant, interposing alibi, claimed that at around 9:15 p.m. to 9:35 p.m. on September 1, 1998, he was sitting in front of his house, after which he went inside and watched television until around 10:30 p.m. when he fell asleep at the sofa located at the ground floor of their house.

Appellant's mother Evelyn corroborated appellant's claim.

By Decision of May 3, 2001 Decision, the trial court convicted appellant of murder, disposing as follows:

WHEREFORE, the accused, Rachel Angeles, is hereby convicted of the crime of murder under Article 248 of the Revised Penal Code and sentenced to suffer reclusion perpetua with all the accessory penalties provided by law and to pay the costs. The accused is further ordered to pay the legal heirs of the victim moral and nominal damages in the respective sums of P200,000.00 and P70,000.00, plus compensation for the loss of the life of the victim in the sum of P50,000.00 with interest thereon at the legal rate of 6% per annum from this date until fully paid.[6] (Underscoring supplied)

This Court, following *People v. Mateo*,^[7] referred the case, by Resolution of September 15, 2004,^[8] to the Court of Appeals where it was docketed as CA-G.R. CR-H.C. No. 01612.

In his Brief,^[9] appellant faults the trial court in:

I.

... CONVICTING [APPELLANT] OF MURDER WHEN THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

II

...CONVICTING [APPELLANT] OF MURDER IN THE ABSENCE OF THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

III

...NOT TAKING INTO CONSIDERATION THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER IN IMPOSING THE PENALTY.[10] (Underscoring supplied)

The appellate court affirmed with modification the trial court's decision, disposing as follows:

WHEREFORE, the Decision appealed from is MODIFIED by DELETING the award of nominal damages in the amount of P70,000.00 and ORDERING accused-appellant Rachel Angeles y Naval to pay the heirs of Michael Coligado the amount of P25,000.00 as temperate damages, REDUCING the award of moral damages from P200,000.00 to P50,000.00 and AFFIRMING the same in all other respects. (Emphasis and capitalization in the original; underscoring supplied)

In deleting the trial court's award of nominal damages, the appellate court held that nominal damages are awarded only when no actual damages resulted or none were shown. In the present case, however, the appellate court noted that the family of the victim made a downpayment of P10,000 to the Davao Funeral Home as part of the funeral expenses, and while an Agreement[11] between the mother of the victim and the funeral home for funeral expenses and interment in the amount of P38,000 was presented, it was not established that the total amount of P38,000 was actually paid.[12] Hence, the appellate court's award of temperate damages instead of nominal damages.

Hence, the present appeal.

For alibi to prosper, it is not enough for an accused to prove that he was somewhere else when the crime was committed. He must prove that he could not have been physically present at the locus criminis or in its immediate vicinity, and the same must be supported by credible corroboration, preferably from disinterested witnesses who would swear that they saw or were with the accused somewhere else when the crime was being committed.[13]

Appellant's mother's corroboration of his alibi does not impress. For while she declared that when she went up the second floor of their house to sleep at around 11:30 p.m., appellant was already sleeping at the sofa, and that when she went down to urinate at 1:00 a.m., appellant was still there sleeping, she could not have known whether appellant stepped out of the house between 11:30 p.m. and 1:00 a.m.

Q:

And what time did you go to sleep?

A:

11:30 p.m., sir.

Q:

And you woke up on the following morning, is that correct?

A:

Yes, sir, early morning at 1:00 a.m. because I urinated.

Q:

While you were asleep from 11:30 up to 1:00 a.m. the following morning, you did not saw [sic] your son Rachel [A]ngeles went out your house?

A:

He was there sleeping, sir.

Q:

The basis of your answer that he was sleeping is your allegation that when you went to sleep you saw him sleeping, is that correct?

A:

Yes, sir.

Q:

But you cannot be absolutely certain that after you went to bed, he did not leave your house because you admitted that you already went to sleep?

A:

Yes, sir.

x x x x

COURT:

Q:

Where was he sleeping at that time when you slept at 11:30 p.m.?

A:

At the sala, Your Honor.

COURT

Q:

And where is your room situated, in what part of your house?

A:

Upstairs, sir.

Q:

And the sala of your house is located on the ground floor of your house?

A:

Yes, sir. [14] (Emphasis and underscoring supplied)

That appellant's guilt is not ruled out in view of the proximity of his house to the locus criminis is reflected in his own testimony on cross-examination, viz:

Q:

Now, that place where you reside is at No. 2172 T. Pinpin St., is that correct?

A:

Yes, sir.

Q:

And that is very near the place where where [sic] Michael Colligado was killed, is that correct?

A:

It's far, it's on the other street, sir.

Q:

That is also along T. Pinpin St., is that correct?

A:

No, sir, it happened on Batanes Street, sir.

Q:

And that is at the corner of T. Pinpin Street, is that correct?

A:

Yes, sir.

Q:

And from your house, you could reach that place by walk[ing] just for about 5 minutes, is that correct?

A:

It would take me about ten minutes, sir.

Q:

But if you run, you would reach that in a short period of time, probably about 5 minutes more or less, is that correct?

A:

Probably about 5 minutes, sir.[15] (Emphasis and underscoring supplied)

It bears stressing that appellant and even his mother could not impute any ill-motive on the part of prosecution eyewitness Aguilar to falsely charge him of having stabbed the victim.

The well-settled rule that positive identification by a witness, absent any showing of ill motive on his part, prevails thus stands.[16]

That treachery attended the stabbing cannot be gainsaid. The essence of treachery is the sudden and unexpected attack by the aggressor on an unsuspecting victim, depriving him of any real chance to defend himself. Even when the victim was forewarned of the danger to his person, treachery may still be appreciated since what is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[17]

In the present case, even assuming that the victim was forewarned of the danger because he was, immediately before the stabbing, engaged in an argument with appellant, he was not in a position to defend himself as his hands were held by appellant's companion.

As for appellant's claim of voluntary surrender to mitigate the penalty imposed on him, the same fails. The records do not indicate that appellant intended to assume responsibility for the death of the victim. As the Office of the Solicitor General observes, he was "merely forced by circumstances." [18]

Under Article 2224 of the Civil Code, when the court finds that some pecuniary loss has been suffered but its amount cannot be proved with certainty, temperate damages may be recovered. Consistent with prevailing jurisprudence, the appellate court correctly awarded the amount of P25,000.[19]

Further, under Article 2230 of the Civil Code, exemplary damages may be awarded in criminal cases when the

crime was committed with one or more aggravating circumstances, in this case, treachery. This is intended to serve as deterrent to serious wrongdoings and as vindication of undue sufferings and wanton invasion of the rights of an injured, or as a punishment for those guilty of outrageous conduct.[20] The imposition of exemplary damages is also justified under Article 2229 of the Civil Code in order to set an example for the public good. The amount for the purpose is P25,000 following precedents.[21]

WHEREFORE, the May 15, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01612 is AFFIRMED with MODIFICATION in that appellant is also ordered to pay the heirs of Michael Coligado the amount of Twenty Five Thousand (P25,000) as exemplary damages.

SO ORDERED.

Carpio,[*] Brion, Del Castillo, and Abad, JJ., concur.

[*] Additional member per Special Order No. 671 in lieu of Senior Associate Justice Leonardo A. Quisumbing who is on official leave..

[1] CA rollo, pp. 85-96. Penned by Justice Marina L. Buzon, with the concurrence of Justices Aurora Santiago-Lagman and Arcangelita Romilla-Lontok.

[2] Also spelled Taroyo in some parts of the records.

[3] Records, p. 1.

[4] TSN, Antonio Aguilar, February 12, 1999, pp. 3-5; November 19, 1999, pp. 3-7.

[5] TSN, Jonathan Carpio, February 23, 2000, pp. 2-7.

[6] Records, pp. 123-124.

[7] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. The case modified the pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment and allowed intermediate review by the Court of Appeals before such cases are elevated to the Supreme Court.

[8] CA rollo, p. 83.

[9] Id. at 39-50.

[10] Id. at 39.

[11] Records, p. 77.

[12] CA rollo, pp. 94-95.

[13] *People v. Gusmo*, 467 Phil. 199, 217-218.

[14] TSN, Evelyn Angeles, November 28, 2000, pp. 2-4.

[15] TSN, Rachel Angeles, May 26, 2000, p.6.

[16] *People v. Barcimo, Jr.* 467 Phil. 709, 719 (2004). Vide *Sienes v. People*, G.R. No. 132925, December 13, 2006, 511 SCRA 13, 27; *People v. Bon*, G.R. No. 166401, October 30, 2006, 506 SCRA 168, 186.

[17] *People v. Rodas*, G.R. No. 175881, August 28, 2007, 531 SCRA 554, 567.

[18] CA rollo, p. 73.

[19] *People v. Eling*, G.R. No. 178546, April 30, 2008, 553 SCRA 724, 740; *People v. Tagana*, 468 Phil. 784, 814 (2004).

[20] *People v. Malibiran*, G.R. No. 178301, April 24, 2009.

[21] Vide *People v. Obligado*, G.R. No. 171735, April 16, 2009; *People v. Rolida*, G.R. No. 178322, March 4, 2009; *People v. Martin*, G.R. No. 177571, September 29, 2008, 567 SCRA 42; *People v. Segobre*, G.R. No. 169877, February 14, 2008, 545 SCRA 341, 350.

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