

ARTURO REVITA “ALIAS” ARTHUR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 177564. October 31, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court assails the Decision[1] dated 15 February 2007 of the Court of Appeals in CA-G.R. CR No. 29903 which affirmed in toto the Decision[2] dated 7 November 2005 of the Regional Trial Court (RTC) of Rosales, Pangasinan, Branch 53, finding petitioner Arturo O. Revita (Arturo) guilty of the crime of homicide.

On 26 August 2002, Arturo was charged before the RTC with the crime of Homicide under Article 249 of the Revised Penal Code, as amended. The accusatory portion of the Information reads:

That on or about the 23[rd] day of July, 2002, in the evening, in Brgy. Rajal, Municipality of Balungao, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with an unlicensed firearm, with intent to kill, did then and there, willfully, unlawfully and feloniously attack and shoot Flordeliza Caguioa, inflicting upon her multiple gunshot wounds on the different parts of her body which caused her death, to the damage and prejudice of the heirs of said deceased.[3]

During the arraignment on 25 September 2002, Arturo, with the assistance of counsel de oficio, pleaded not guilty.[4] Thereafter, trial on the merits ensued.

The prosecution presented two witnesses: (1) Bryan Caguiao (Bryan), 19-year old grandson of the late victim, Flordeliza Caguioa (Flordeliza), who allegedly saw the actual killing of the latter; and (2) Dr. Monina M. Madriaga (Dr. Madriaga), the Municipal Health Officer of Balungao, Pangasinan, who conducted the autopsy of the corpse of the victim.

As documentary evidence, the prosecution offered the following: (1) Exhibit "A" - Autopsy Report issued by Dr. Madriaga; (2) Exhibit "B" - Death Certificate of Flordeliza; (3) Exhibit "C" - Sworn Statement of Bryan dated 24 July 2002; and (4) Exhibit "D" - Certificate issued by the Firearms and Explosives Division of the Philippine National Police, Camp Crame certifying that Arturo is not a licensed firearm holder.

The totality of evidence offered by the prosecution shows that at around 8:00 o'clock in the evening of 23 July 2002, Bryan and his cousin, Manilyn Rangel (Manilyn), were idly talking at the yard of Flordeliza in Sitio Bantog, Barangay Rajal, Balungao, Pangasinan, when Arturo arrived.[5] Bryan asked Arturo where he was going, but the latter, who looked infuriated, did not reply.[6] Arturo proceeded to the direction of Flordeliza who was coming out of her house towards the terrace. When Arturo was already close to Flordeliza, at the distance of two and a half meters, he shot the latter with a baby armalite several times.[7] Flordeliza fell down. Bryan saw the incident since the place was illuminated by a light coming from his aunt's terrace. After witnessing the shocking incident, Bryan and Manilyn ran away from the scene to a cousin's house nearby.[8]

The following day, Dr. Madriaga conducted an autopsy of the corpse of Flordeliza where she found seven gunshot wounds, four of which were entry wounds and the three others being exit wounds.[9] She observed that three of the four entry wounds were fatal.[10] She then concluded that the ultimate cause of the victim's death was severe hemorrhage secondary to multiple gunshot wounds.[11] Dr. Madriaga's autopsy report reveals the following findings:

"EXTERNAL FINDINGS:

-

gunshot wound, entrance, 0.7 cm, oval, posterior axillary line at the line of the 7[th] intercostal space (R) no blackening

-

gunshot wound, entrance, 0.7 cm, oval, (R) scapular area, no blackening

-

gunshot wound, entrance, 0.7 cm, oval (R) upper back, no blackening

-

gunshot wound, entrance, 0.7 cm, oval (R) upper third of the arm, no blackening

-

gunshot wound, exit, 8 cm, sternum area

-

gunshot wound, exit, 11 cm, mid-upper back

-

gunshot wound, exit, 13 cm. (R) chest

INTERNAL FINDINGS:

On opening the chest cavity, the heart and the (R) lung were lacerated with multiple blood and blood clots inside.

CAUSE OF DEATH:

Hemorrhage, severe 2[nd] to Multiple gunshot wounds[12]

As to the funeral expenses incurred by the family of the deceased, both prosecution and the defense stipulated that said family spent P43,615.00 for the interment.[13]

The defense, on the other hand, advanced the theory of denial and alibi. To buttress its claim, the defense presented Arturo and the following witnesses: (1) Rolando de la Peña (Rolando), Arturo's brother-in-law, who was allegedly with Arturo when the incident took place; (2) Teodoro Olivares (Teodoro), Arturo's nephew, who also claimed he was with Arturo during the night in question; (3) Lemie Revita (Lemie), Arturo's wife; (4) Police Inspector (P/Insp.) Emelda Besarra Roderos, Forensic Chemist of the Pangasinan Provincial Laboratory, who conducted a paraffin test on Arturo; (5) Senior Police Officer (SPO) 1 Gervacio Villanos, the investigator of the killing incident; and (6) Police Officer 3 (PO3) Ben Perez Bince, the responding police officer.

Arturo denied the accusation against him. He claimed that when the killing of Flordeliza occurred on 23 July 2002, he was in the house of his sister situated in Sitio Bantog, Barangay Rajal, Balungao, Pangasinan, enjoying a drinking spree while waiting for the arrival of his sister from Spain.[14] He alleged he was with the company of his brothers, sister, wife, children and some friends. After getting drunk, he went to sleep only to be awakened by his wife at around 8:30 to 9:00 p.m. as police officers were looking for him.[15] The same police officers brought him to the municipal jail and detained him. The following morning, he was brought to Urdaneta City where he was subjected to a paraffin test. The test yielded a negative result since there was no gunpowder residue found in his hands.

Witnesses Lemie, Teodoro and Rolando corroborated Arturo's testimony that he was in his sister's house and that they were there the whole time when the incident was supposed to have happened. Lemie further testified that as the finance officer of the Barangay Power Association, she personally knew, through the billing statement, that there was no electricity in the house of the victim during the fateful night.

P/Insp. Emelda Besarra Roderos testified that when she conducted a paraffin test on Arturo, she found that the latter was negative for the presence of gunpowder nitrates.[16]

SPO1 Gervacio Villanos merely testified that he saw Arturo being detained in the municipal jail at around 8:30 p.m. of 23 July 2002 and that the latter was brought to Urdaneta City, Pangasinan, for paraffin examination the following day.[17]

PO3 Ben Bince declared in the witness stand that he received a call from a concerned citizen regarding the shooting incident. When he reached the scene, he heard somebody saying that it was Arturo who killed the victim. So he went to the house where Arturo was staying. While on his way, he met a woman who told him that Arturo was inside his sister's house sleeping. Then he invited Arturo to the police station.[18]

In a decision dated 7 November 2005, the RTC found Arturo guilty beyond reasonable doubt of the charge pressed against him.

The dispositive portion of the RTC decision reads:

WHEREFORE, the accused Arturo O. Revita is hereby found guilty beyond reasonable doubt of committing the crime of homicide as charged, defined and penalized under Article 249 of the Revised Penal Code. Accordingly, he is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor, as MINIMUM, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as MAXIMUM; and to pay the heirs of the deceased Flordeliza Caguioa the amount of P43,615.00 as actual damages; P50,000.00 as indemnity for the death of the victim; and P50,000.00 as moral damages.[19]

Arturo appealed the decision to the Court of Appeals. In a decision dated 15 February 2007, the Court of Appeals affirmed in toto the decision of the RTC. The judgment provides:

WHEREFORE, the assailed Decision of the Regional Trial Court of Rosales, Pangasinan in Criminal Case No. 4483-R finding appellant guilty of homicide and holding him civilly liable therefore is hereby AFFIRMED.[20]

Hence, the instant case.

Arturo assails the RTC and the Court of Appeal's findings which gave weight and credence to the testimony of witness Bryan. Arturo finds incredible the testimony of Bryan who recounts that he saw the suspect pass by him while displaying his rifle. Arturo opines that it would run counter to human experience that a felon would exhibit his attack weapon before any possible witnesses to his criminal act. He said that criminals would normally hide any crime instrument to avoid being suspected. Arturo is likewise skeptical of Bryan's behavior during the

incident. He stresses that if indeed Bryan witnessed what he declared in the witness stand, he would have attempted to prevent the perpetrator from killing his grandmother. Since Bryan did not even try to dissuade the malefactor from carrying out his plan, his testimony is suspect.

At bottom, the question in this case is the credibility of the parties and their witnesses.

Well-entrenched is the rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the declarant's demeanor, conduct and position to discriminate between truth and falsehood.[21] This is especially true when the trial court's findings have been affirmed by the appellate court, because said findings are generally conclusive and binding upon this Court unless it be manifestly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[22]

In the instant case, prosecution's main witness, Bryan, steadfastly pointed to Arturo as the person who shot the victim. He testified as follows:

Q:

While you were talking with your cousin Manilyn Rangel, what happened if any?

A:

When I was talking with my cousin Manilyn Rangel, uncle Arthur Revita arrived. I asked him where he was going but he did not answer me, sir.

x x x x

Q

Now, where did your uncle Arturo Revita proceed when he arrived?

A:

When he saw my grandmother, he went near to her and shot her, sir.

Q:

Where was your grandmother coming out when Arturo Revita arrived?

A:

She was coming out from inside her house, sir.

Q:

And where did your grandmother proceed?

A:

She proceeded at the terrace, sir.

Q:

You mean to say your grandmother Flordeliza Caguioa was inside her terrace when she was shot by Arturo Revita?

A:

Yes, sir.

Q:

How far were you from the terrace where your grandmother was shot?

A:

4 to 5 meters away, sir.

x x x x

Q:

Now about Arturo Revita, how far was he from your grandmother when he shot her?

A:

He was near my grandmother, sir, about 2½ meters.

x x x x

Q:

With what gun did Arturo Revita shot your grandmother?

A:

He used baby armalite, sir.

Q:

And how many times did Arturo Revita shot your grandmother?

A:

Many times, sir.

Q:

Was your grandmother hit?

A:

Yes, sir.

Q:

Did you see her hit by the shooting of Arturo Revita?

A:

Yes, sir, when my grandmother fell down.[23]

Bryan vividly saw the incident as it was unfolding because it happened right under his nose. He could not have missed it because the victim and the assailant were just close by. Bryan unmistakably identified Arturo as the assailant because right before the latter fired at the victim, the former was able to see at close range the assailant. In fact, Bryan attempted to talk to the assailant when the two bumped into each other. Also, Bryan observed the angry disposition of Arturo immediately before the shooting spree. Considering these facts, even assuming that the crime scene was not lighted, Bryan could still clearly recognize the assailant since the former knew the latter,

and the proximity of the two, which was just a few meters away.

This Court pored over the records of the case and found that Bryan's candid and straightforward narration of the brutal act perpetrated by Arturo on the night of the incident indubitably deserves credence. It is unbelievable that a 19-year old young barrio boy would concoct a tale surrounding the atrocious killing of his grandmother, and would impute so grave a crime to someone he respected, had it not actually taken place. The defense cannot even come up with a decent imputation that Bryan was impelled by ill motive when he pointed at Arturo as the author of the carnage. This is so because there is no plausible reason why Bryan should testify against Arturo, if the latter has nothing to do with what had happened. This Court has consistently held that where there is no evidence to show any dubious reason or improper motive why a prosecution witness should testify falsely against the accused or implicate him in a serious offense, the testimony deserves faith and credit.[24] Indeed, as a relative of the victim, Bryan's purpose would be to ensure that the real culprit is punished rather than put the blame on someone who is innocent of the crime.[25] So, also, the Court has repeatedly said that the testimony of a single witness, if credible and positive and satisfies the court as to the guilt of the accused beyond reasonable doubt, is sufficient to convict.[26] In the instant case, Bryan gave a clear and convincing narration of the crime, identifying Arturo as responsible thereof. His lone testimony as an eyewitness, therefore, is sufficient to support a conviction.

Alibi is an inherently weak defense, and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused.[27] The prosecution witness had categorically identified Arturo as the author of the crime. With the positive identification of Arturo, the defense must demonstrate by positive, clear and satisfactory proof that it was physically impossible for the accused to be at the scene of the crime during its commission.[28] Hence, it is not sufficient that the accused was somewhere else when the crime was committed. Physical impossibility refers to the distance between the place where the accused was when the crime happened and the place where it was committed, as well as the facility of the access between the two places.[29] In this case, Arturo said that he went to sleep at around 7:30 p.m. of the night in question.[30] Arturo's brother-in-law also claimed that he saw Arturo asleep before 8:00 p.m.[31] His wife also testified that Arturo went to bed a little after 7:00 p.m. of the night.[32] While it may be true that Arturo was asleep before the killing incident took place, there is also a great possibility that Arturo woke up and hurriedly went to the place of the victim and, after killing her, returned to his sister's house at around 8:30 p.m. This thesis gains more significance since Arturo himself admitted that his sister's house is very close to that of the victim, which is only less than 300 meters away. There is, therefore, a huge possibility that Arturo was present at the scene of the crime when it was committed at around 8:00 p.m. of 23 July 2002. Hence, the defense is unsuccessful in demonstrating that it was physically impossible for Arturo to be there at the crime scene or nearby when the killing occurred. Besides, the witnesses who corroborated Arturo's alibi are his close relatives. This Court gives less probative weight to a defense of alibi when it is corroborated by friends and relatives, thus:

One can easily fabricate an alibi and ask friends and relatives to corroborate it. When a defense witness is a relative of an accused whose defense is alibi, courts have more reason to view such testimony with skepticism.[33] (Emphasis supplied.)

Arturo is clutching at straws in making an issue out of Bryan's inaction to stop the killing of his grandmother, or at least to help her after she was shot by the assailant. There is no standard form of behavioral response when one is confronted with a strange, startling, frightful or traumatic experience - some may shout, some may faint, and some may be shocked into insensibility.[34] Different people act differently to a given stimulus or type of situation.[35] Bryan's flight from the scene is understandable considering that the harrowing sight he just witnessed was beyond his young mind to take. It is also natural for him to scurry away from the place to avoid incurring the wrath of the assailant. Moreover, Bryan failed to prevent Arturo from killing his grandmother simply because he did not expect that the latter would shoot the victim. Also, Arturo, who was armed with a

high-powered rifle, would be too enormous a force to be stalled by the young fellow.

Arturo claims that Bryan's testimony is unrealistic since it is not in accord with human experience to kill someone in the presence of prying eyes and that at the very least the weapon used should be concealed from the witnesses. This argument is unavailing. This Court observed that there is no standard behavior of criminals before, during, and after the commission of a crime.[36] Some may be so bold and daring at the point of recklessness in committing a crime in broad daylight in full view of bystanders, would-be witnesses and even before the very eyes of the victim's relatives.[37] Others may be so cunning such that they commit crime in the darkness of the night to avoid detection and arrest by peace officers.[38] In the case under consideration, it is not remote that Arturo - who was intoxicated - may have been emboldened by his condition to the point of displaying his weapon to the relatives of the victim and executed the victim in the presence of the victim's relatives.

Arturo insists that his conviction is tainted by reasonable doubt since the paraffin test conducted on him resulted negative. Suffice it to state that even negative findings of the paraffin test do not conclusively show that a person did not fire a gun. A paraffin test has been held to be highly unreliable. The Court thus once held:

Scientific experts concur in the view that the paraffin test has "x x x proved extremely unreliable in use. The only thing that it can definitely establish is the presence or absence of nitrates or nitrites on the hand. It cannot be established from this test alone that the source of the nitrates or nitrites was the discharge of a firearm. The person may have handled one or more of a number of substances which give the same positive reaction for nitrates or nitrites, such as explosives, fireworks, fertilizers, pharmaceuticals, and leguminous plants such as peas, beans, and alfalfa. A person who uses tobacco may also have nitrate or nitrite deposits on his hands since these substances are present in the products of combustion of tobacco." In numerous rulings, we have also recognized several factors which may bring about the absence of gunpowder nitrates on the hands of a gunman, viz: when the assailant washes his hands after firing the gun, wears gloves at the time of the shooting, or if the direction of a strong wind is against the gunman at the time of firing. x x x.[39]

In fine, this Court defers to the findings of the trial court which are affirmed by the Court of Appeals, there being no cogent reason to veer away from such findings.

Under Article 249 of the Revised Penal Code, the applicable penalty for homicide is reclusion temporal. There being no mitigating or aggravating circumstance alleged and proven in the case at bar, the penalty should be applied in its medium period pursuant to Article 64(1) of the Revised Penal Code, which ranges from a minimum of 14 years, 8 months and 1 day to a maximum of 17 years and 4 months. Applying the Indeterminate Sentence Law, the imposable penalty shall be within the range of prision mayor in any of its periods as minimum to reclusion temporal in its medium period as the maximum. The range of prision mayor is from 6 years and 1 day to 12 years, while reclusion temporal in its medium period, ranges from 14 years, 8 months and 1 day to 17 years and 4 months. The RTC imposed on Arturo the indeterminate penalty of six years and one day of prision mayor as minimum to 14 years, eight months and one day of reclusion temporal, as maximum. Therefore, the penalty imposed by the RTC is in order.

Also affirmed is the award of damages by the RTC. The actual damages in the amount of P43,615.00 for funeral expenses is stipulated upon by the parties. It should be maintained. The award of P50,000.00 for civil indemnity and another P50,000.00 for moral damages is likewise in accord with latest jurisprudence.[40]

WHEREFORE, the Decision of the Court of Appeals dated 15 February 2007 which affirmed the 7 November 2005 Decision of the Regional Trial Court of Rosales, Pangasinan, Branch 53, finding Arturo O. Revita GUILTY of the crime of Homicide, is hereby AFFIRMED in toto.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio, Tinga, and Velasco, Jr., 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.

** Justices Dante O. Tinga and Presbitero J. Velasco, Jr. were designated to sit as additional members replacing Justices Antonio Eduardo B. Nachura and Ruben T. Reyes per Raffle dated 19 November 2007.

[1] Penned by Associate Justice Mariano C. Del Castillo with Associate Justices Ruben T. Reyes (now Associate Justice of this Court) and Arcangelita Romilla Lontok, concurring; rollo, pp. 95-103.

[2] Penned by Judge Teodorico Alfonso P. Bauzon.

[3] Records, p. 14.

[4] Id. at 61.

[5] TSN, 26 February 2003, pp. 119-120.

[6] Id. at 120-121.

[7] Id. at 121-122.

[8] Id. at 122-123.

[9] TSN, 12 March 2003, pp. 7-13.

[10] Id. at 12-13.

[11] Id. at 14.

[12] Exhibit "A"; records, p. 6.

[13] Records, p. 89.

[14] TSN, 6 January 2004, pp. 8-9.

[15] Id. at 5, 10.

[16] TSN, 16 August 2004, p. 5.

[17] TSN, 5 October 2004, pp. 5-6.

[18] TSN, 23 May 2005, pp. 6-8.

[19] Rollo, p. 80.

[20] Id. at 102-103.

[21] *People v. Matito*, 468 Phil. 14, 24 (2004).

[22] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.

[23] TSN, 26 February 2003, pp. 4-7.

- [24] *People v. Continente*, 393 Phil. 367, 400 (2000).
- [25] *People v. Carillo*, 388 Phil. 1010, 1023 (2000).
- [26] *People v. Camacho*, 411 Phil. 715, 727 (2001).
- [27] *People v. Morales*, 311 Phil. 279, 288 (1995).
- [28] *People v. Appegu*, 429 Phil. 467, 481 (2002).
- [29] *Id.*
- [30] TSN, 2 February, pp. 6-7.
- [31] TSN, 26 August 2003, p. 11.
- [32] TSN, 23 February 2004, p. 6.
- [33] *People v. Sumalinog, Jr.*, 466 Phil. 637, 651 (2004).
- [34] *People v. Castillo*, *supra* note 22.
- [35] *Id.*
- [36] *People v. Garcia*, 447 Phil. 244, 260 (2003).
- [37] *Id.*
- [38] *Id.*
- [39] *People v. Teehankee, Jr.*, G.R. Nos. 111206-08, 6 October 1995, 249 SCRA 54, 103.
- [40] *Licyayo v. People*, G.R. No. 169425, 4 March 2008, 547 SCRA 598, 614.

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