

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. DEAN MARTIN Y SARVIDA @ DENDEN AND ROMEO TANOAN Y MACAILIG, ACCUSED-APPELLANTS.

G.R. No. 177571. September 29, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the Decision[1] dated November 8, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02388 entitled *People of the Philippines v. Dean Martin and Romeo Tanoan* which affirmed the Decision[2] dated April 10, 2000 of the Regional Trial Court (RTC), Branch 11 in Manila in Criminal Case No. 95-14361. The RTC found accused-appellants Dean Martin and Romeo Tanoan guilty of murder and imposed upon them the penalty of reclusion perpetua.

The Facts

On April 2, 1995 at around 7:30 p.m., Rogelio Dihan, accompanied by his wife, Dolores, and their two children, was driving his passenger jeepney towards Dart, Paco, Manila. Rogelio stopped his jeepney at the red traffic light in San Andres Bukid, before crossing the railroad track near the South Super Highway. Suddenly, accused-appellant Tanoan approached Rogelio from behind and stabbed him several times. Dolores and her children, who were seated beside the victim, pleaded with Tanoan to stop but their cries were unheeded. Dolores then tried to get out of the jeepney to call for help but accused-appellant Martin and two other unidentified males blocked her way.

Thereafter, accused-appellants ran towards Perlita Street. Rogelio was able to drive the jeepney a little further before he collapsed. Dolores sought help from the passengers of the passing vehicles and an ambulance later brought Rogelio to the Philippine General Hospital. Rogelio was pronounced dead on arrival upon reaching the hospital.

Aside from Dolores, the incident was also witnessed by Sergio Delos Santos, Rogelio's co-driver along the San Andres-Faura-Paco route. At that time, Rogelio's jeep was right in front of Sergio's. While they were at a stop, Tanoan passed in front of Sergio's jeepney, and went beside Rogelio. Sergio then noticed a commotion inside the jeepney and he saw Tanoan stab Rogelio several times. Dolores tried to get out but Martin pushed her inside.[3]

On June 5, 1995, at around 9 o'clock in the morning, Dolores chanced upon Tanoan who was bathing in the rain near the railroad track where the crime occurred. Dolores then called her brother-in-law, who informed the police authorities of the presence of Tanoan. The police then came to the vicinity and apprehended Tanoan.

At the police station, Dolores, Sergio, and a certain Gerardo Oblibino identified Tanoan as the one who stabbed Rogelio. Later in the evening, Tanoan confessed to the investigating police that Martin was his co-conspirator. Martin was then apprehended. On the next day, Sergio identified Martin as the one who hindered Dolores from

seeking help.[4]

Tanoan and Martin underwent inquest proceedings, and were later charged with the crime of murder.

In their defense, accused-appellants denied participation in the incident. Martin claimed that at the time of the incident, he was sewing basketball jerseys in their shanty, which was 50 meters away from where the crime took place. He said that he never left their shanty from 9 to 11 o'clock in the evening.[5] On the other hand, defense witnesses German Mariano, Irene Barrozo, and Giovanni Gafud stated that Tanoan was merely one of the bystanders who were milling around after the incident took place.

On April 10, 2000, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, this Court finds the accused DEAN MARTIN y SARVIDA @ Denden and ROMEO TANOAN y MACAILIG, guilty beyond [reasonable] doubt of the felony of murder as defined and penalized under Art. 248 of the Revised Penal Code as amended, without any aggravating and mitigating circumstance to affect their liability therefor, and sentences both of them to suffer the penalty of reclusion perpetua, and to pay jointly and severally, the heirs of the victim the amount of [PhP] 50,000.00 as civil indemnity, [PhP] 10,000.00 as actual expenses and the costs of suit.

SO ORDERED.[6]

Accused-appellants filed a Notice of Appeal and the records of the case were forwarded to this Court for review. The case was originally docketed as G.R. No. 143079. In accordance with *People v. Mateo*,[7] this Court, however, in its December 8, 2004 Resolution, transferred the case to the CA for intermediate review.

The Ruling of the CA

Affirming the trial court, the CA, in its Decision dated November 8, 2006, gave credence to the positive testimonies of the prosecution witnesses and dismissed the denial and alibi of accused-appellants. It held that the eyewitness account of the victim's wife is worthy of faith as she could only be interested in having the real culprit punished. Moreover, no ill motive was imputed against the prosecution witnesses that would taint their credibility. On the other hand, accused-appellants failed to show by convincing evidence that it was physically impossible for them to have been at the scene of the crime during its commission. The appellate court observed that even adducing from the defense witnesses' testimonies, both accused-appellants were very near the scene of the crime at the time of its commission; which explained why they were identified as the perpetrators by the prosecution witnesses.

The CA then modified the trial court's award of damages. Considering that the actual damages proven only amounted to PhP 10,000, the CA awarded temperate damages in the amount of PhP 25,000 in lieu of actual damages. It also awarded PhP 25,000 as exemplary damages and PhP 50,000 as moral damages.

Hence, we have this appeal.

The Issues

In a Resolution dated August 22, 2007, this Court required the parties to submit supplemental briefs if they so desired. On October 3, 2007, accused-appellants, through counsel, signified that they were no longer filing a supplemental brief. Thus, the issues raised in accused-appellants' Brief dated April 3, 2001 are now deemed adopted in this present appeal:

I

The trial court erred in finding that accused Tanoan had been positively identified by the prosecution

witnesses.

II

The trial court [erred] in holding that accused Martin had taken part in the assault on the victim. Moreover, he was not positively identified by any of the key witnesses present at the scene of the crime.

III

The trial court erred in believing the hearsay testimony of the police officers that upon being captured 2 months after the killing, accused Tanoan had declared that accused Martin was his companion in the assault.

IV

The trial court erred in finding accused Tanoan and Martin guilty beyond reasonable doubt of the crime of murder.[8]

In essence, accused-appellants question the credibility of the prosecution witnesses in their identification of the former as the culprits.

This Court's Ruling

The appeal has no merit.

Accused-appellants contend that they were not properly identified by the prosecution witnesses as the perpetrators of the crime. They fault the investigating police officers for allegedly suggesting their identification to the eyewitnesses. Also, they question the witnesses' delay in reporting the identity of the assailants. Thus, they claim that the testimonies of the prosecution witnesses should not be given any weight.

When an accused challenges the witness' identification of the perpetrators, the credibility of the witness is put to doubt. As a general rule, the findings of the trial court on the credibility of witnesses are entitled to the highest respect and will not be disturbed on appeal in the absence of any clear showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[9]

In this case, accused-appellants have not given us sufficient reason to overturn the findings of the RTC and the CA. Accused-appellants reliance on the alleged unfair conduct of the police line-up has no merit. The records do not bear out any irregularity in the way the police conducted the line-up. Besides, a police line-up is not required for the proper and fair identification of offenders.[10] What is crucial is for the witness to positively declare during trial that the persons charged were the malefactors.[11]

Accused-appellant Tanoan was positively identified by two eyewitnesses: the victim's wife, Dolores, and the victim's co-driver, Sergio. In her testimony, Dolores recounted in a straightforward and clear manner how the stabbing incident took place. She described with certainty how the assailant looked like and pointed to Tanoan as that person. As correctly observed by the appellate court, Tanoan could not deny that Dolores saw him "because [he] was only a meter away from [her] and the street was illuminated by a light bulb in an electric post only [four] meters away from the jeepney." [12] Dolores remembered her husband's assailant so well that when she chanced upon him again within the vicinity of the crime scene, she immediately reported the matter to her brother-in-law, who contacted the police so that he could be arrested. Her identification of Tanoan as the culprit was established in a police line-up and confirmed consistently during her direct and cross examinations. It must be noted that relatives of a victim of a crime have a natural knack for remembering the face of the assailant and they, more than anybody else, would be concerned with obtaining justice for the victim.[13] Certainly, Dolores' interest for

securing the conviction of her husband's assailant would dissuade her from implicating a person other than the real culprit.[14]

Also untenable is accused-appellants' contention that Sergio's testimony is doubtful considering his delay in reporting the identity of the assailants. Delay in making a criminal accusation will not necessarily impair the credibility of a witness if such delay is satisfactorily explained.[15] Sergio declared that at the time of the incident, he had passengers who did not want to be unloaded in that place, and afraid that he might also get involved in the matter, he simply overtook the victim's jeep when the traffic signal turned green. When the police came to the jeepney terminal to investigate two months after the incident, however, he readily came forward to help identify the culprits. In a police line-up, he positively identified Tanoan as the person who stabbed the victim, and Martin as the one who hindered Dolores from seeking help. In his testimony in court, Sergio affirmed his earlier charge against accused-appellants and candidly pointed to the latter as the culprits.

Considered against the positive testimonies of the witnesses, accused-appellants' alibi cannot prevail. For the defense of alibi to prosper, the accused must demonstrate that he was so far away from the scene of the crime that it was physically impossible for him to be present there at the time of its commission.[16] Such was not established here. On the other hand, the prosecution was able to show that accused-appellants were only a few meters away from the crime scene and that it would not have been difficult for them to be there when the crime happened and surreptitiously return to where they were first situated after it had been committed.

We hold further that the CA correctly ruled that there was conspiracy between accused-appellants in committing the crime. Conspiracy exists when two or more persons agree to commit a felony and decide to commit it.[17] Direct proof is not essential to prove conspiracy; it may be deduced by acts of the accused before, during, and after the commission of the crime charged, from which it may be indicated that there is a common purpose to commit the crime.[18] In this case, while Martin did not take part in stabbing the victim, his act of stopping Dolores from seeking help implied his assent to Tanoan's act and ensured the completion of the criminal act.

As regards the award of damages, we find that the CA correctly awarded PhP 25,000 as temperate damages in lieu of actual damages in a lesser amount.[19] Also, it was proper to award moral damages because such is granted without need of further proof other than the fact of the killing;[20] and exemplary damages because the crime was attended by an aggravating circumstance.[21] The appellate court, however, deleted the award of civil indemnity. The grant of civil indemnity in murder requires no proof other than the fact of death as a result of the crime and proof of the accused's responsibility therefor.[22] Thus, civil indemnity of PhP 50,000 is additionally granted in favor of the heirs of the victim.

WHEREFORE, the Court AFFIRMS the November 8, 2006 CA Decision in CA-G.R. CR-H.C. No. 02388 with MODIFICATIONS to read as follows:

WHEREFORE, this Court finds the accused DEAN MARTIN y SARVIDA @ Denden and ROMEO TANOAN y MACAILIG, guilty beyond reasonable doubt of the crime of murder as defined and penalized under Art. 248 of the Revised Penal Code as amended, without any aggravating and mitigating circumstances to affect their liability, and sentences both of them to suffer the penalty of reclusion perpetua, and to pay jointly and severally, the heirs of the victim the amount of PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, PhP 25,000 as temperate damages, PhP 25,000 as exemplary damages and the costs of suit.

SO ORDERED.

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

- [1] Rollo, pp. 3-21. Penned by Associate Justice Noel G. Tijam and concurred in by Associate Justices Remedios A. Salazar-Fernando and Arturo G. Tayag.
- [2] CA rollo, pp. 24-31. Penned by Judge Luis J. Arranz.
- [3] Rollo, p. 5.
- [4] Id. at 6.
- [5] Id. at 7.
- [6] Supra note 2, at 31.
- [7] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [8] CA rollo, pp. 64-65. Original in capital letters.
- [9] People v. Togahan, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 568; People v. Malejana, G.R. No. 145002, January 24, 2006, 479 SCRA 610, 620; People v. Cariño, G.R. No. 131117, June 15, 2004, 432 SCRA 57, 71.
- [10] People v. Aquino, G.R. No. 129288, March 30, 2000, 329 SCRA 247, 265.
- [11] People v. Dela Cruz, G.R. No. 148730, June 26, 2003, 405 SCRA 112, 121.
- [12] Rollo, p. 12.
- [13] Cariño, supra at 81; People v. Tagana, G.R. No. 133027, March 4, 2004, 424 SCRA 620, 639; People v. Coca Jr., G.R. No. 133739, May 29, 2002, 382 SCRA 508, 515.
- [14] Velasco v. People, G.R. No. 166479, February 28, 2006, 483 SCRA 649, 667.
- [15] People v. Abendan, G.R. Nos. 132026-27, June 28, 2001, 360 SCRA 106, 123.
- [16] People v. Sumalinog Jr., G.R. No. 128387, February 5, 2004, 422 SCRA 55, 64.
- [17] People v. Bulan, G.R. No. 143404, June 8, 2005, 459 SCRA 550, 579, 596; People v. Abes, G.R. No. 138937, January 20, 2004, 420 SCRA 259, 276.
- [18] Bulan, supra.
- [19] People v. Belonio, G.R. No. 148695, May 27, 2004, 429 SCRA 579, 596.
- [20] People v. Geral, G.R. No. 145731, June 26, 2003, 405 SCRA 104, 111; People v. Cabote, G.R. No. 136143, November 15, 2001, 369 SCRA 65, 78.
- [21] CIVIL CODE, Art. 2230.
- [22] People v. Whisenhunt, G.R. No. 123819, November 14, 2001, 368 SCRA 586, 610.

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