

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANGELINO YANSON, APPELLANT.

G.R. No. 179195. October 03, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

On April 25, 2001, the Regional Trial Court (RTC) of San Miguel, Jordan, Guimaras, Branch 65, rendered a Decision[1] in Criminal Case No. 0016 finding appellant Angelino Yanson (appellant) guilty beyond reasonable doubt of murder while acquitting his co-accused, Rolando Salcedo (Salcedo).

Appellant filed an appeal with the Court of Appeals (CA) which was docketed as CA-G.R. CR-H.C. No. 00115. However, in its July 21, 2006 Decision,[2] the CA affirmed with modification the Decision of the RTC.

Hence, this appeal.

Factual Antecedents

On July 2, 1991, an Information[3] was filed charging appellant and Salcedo with the crime of murder allegedly committed as follows:

That on or about the 12[th] day of May, 1991, in the municipality of Jordan, Subprovince of Guimaras, Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the said accused armed with knives, and with intent to kill, taking advantage of their superior strength and the darkness of the night, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously stab for several times one Carlito Magan, hitting him on the different parts of his body which caused his instant death.

CONTRARY TO LAW.[4]

During their arraignment on October 8, 1991, Salcedo and appellant both entered pleas of "not guilty".[5] Trial on the merits thereafter ensued.

Version of the Prosecution

In the afternoon of May 12, 1991, Elmo Galfo (Galfo) and the victim, Carlito Magan (Magan), were drinking whisky in the store of a certain Lorna Tamson (Tamson).[6] After a while, they were joined by appellant and Salcedo.[7] They finished drinking at around 8:45 in the evening[8] after which Galfo and Magan walked home together.[9]

After traversing a distance of about half a kilometer, Galfo noticed two persons following them,[10] one of whom suddenly stabbed Magan at the back.[11] Galfo positively identified the appellant as the person who stabbed Magan. Galfo tried to approach the victim but appellant and his companion, Salcedo, rushed towards him thus prompting him to run away for safety. While running, however, he managed to look back and saw appellant and Salcedo stab the victim some more.[12]

According to Dr. Edgardo Jabasa, the Provincial Health Officer of Guimaras,[13] the victim suffered eight stab wounds,[14] two of which were fatal and were inflicted at the back.[15]

Version of the Defense

Appellant denied the charge against him. He testified that on May 12, 1991 at around six o'clock in the evening, he and Salcedo joined Galfo and Magan who were drinking whisky[16] inside the store of Tamson.[17] After two hours, he and Salcedo left the store, went directly to the house of Salcedo,[18] ate their supper and slept.[19] The following morning, he and Salcedo worked at the latter's farm.[20] He came to know about Magan's death only on May 23, 1991 when the police officers went to his house.[21]

The defense did not present Salcedo to corroborate the testimony of appellant.

Ruling of the Regional Trial Court

Considering that the Information did not allege conspiracy between the two accused, the trial court found each of them responsible only for his own act.[22]

The trial court found the testimony of Galfo that he personally saw appellant stab Magan at the back as credible because he was positioned only five arms length away from the victim. The trial court also appreciated the qualifying circumstance of treachery considering the suddenness and the surreptitiousness of the attack on the victim.[23] However, it did not lend credence to Galfo's testimony that he also saw Salcedo stab the victim. According to the trial court, it would be highly improbable for Galfo to look back and witness the stabbing by Salcedo while running at a fast pace. Thus, it exonerated Salcedo of any participation in the crime.[24]

The dispositive portion of the April 25, 2001 Decision of the RTC reads:

WHEREFORE, premises considered, judgment is rendered finding accused Angelino Yanson GUILTY beyond reasonable doubt of the crime of murder defined and penalized under Article 248 of the Revised Penal Code. Said accused is hereby sentenced to suffer a penalty of Reclusion Perpetua, plus all accessory penalties attached thereto.

Accused Angelino Yanson is also directed to pay the heirs of Carlito Magan the amount of One Hundred Thirty Three Thousand Six Hundred Fifty (P133,650.00) Pesos, broken down as follows:

P 13,650.00 - as actual expenses;

50,000.00 - as indemnity for the death of Carlito Magan;

50,000.00 - as moral damages; and

20,000.00 - as attorney's fees.

Rolando Salcedo is ACQUITTED of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt.

The bailbonds posted by the two (2) accused are ordered cancelled.

Accused Angelino Yanson is ordered arrested.

Cost against the accused.

SO ORDERED.[25]

Appellant moved for reconsideration[26] but same was denied in an Order[27] dated October 9, 2002.

Appellant filed his Notice of Appeal[28] before this Court. However, conformably with our ruling in *People v. Mateo*,[29] we resolved to refer this case to the CA for appropriate action and disposition.[30]

Ruling of the Court of Appeals

The CA affirmed the trial court's finding that it was indeed appellant who stabbed Magan. Aside from his positive identification by Galfo, the CA also found appellant's defense of alibi to be weak and undeserving of belief because he failed to prove that it was physically impossible for him to be at the crime scene. The CA also found that the trial court correctly appreciated the qualifying circumstance of treachery as Magan was unsuspecting of any harm that would befall him when appellant suddenly stabbed him at the back thereby giving him no opportunity to raise any defense to protect himself. His stab wounds at the back also proved fatal.

The CA however deleted the award of actual damages as there were no receipts presented to support the claim. In lieu thereof, it awarded temperate damages of P25,000.00.

The dispositive portion of the CA Decision reads:

WHEREFORE, finding the instant appeal devoid of merit, the same is hereby DENIED and the Decision of the Regional Trial Court of San Miguel, Jordan, Guimaras, Branch 65 dated 25 April 2001 in Criminal Case No. 0016 for murder is AFFIRMED with modification of the award granted. The award of P13,650.00 as actual damages is deleted and in its stead, the award of P25,000.00 as temperate damages, is substituted.

Costs against accused-appellant.

SO ORDERED.[31]

On October 15, 2007, we accepted appellant's appeal and informed the parties that they may file their respective supplemental briefs.[32] The parties however failed to file their supplemental briefs. Consequently they are deemed to have waived the filing of the same.[33] This case is therefore being resolved based on the arguments presented by the parties in their briefs filed before the CA.

Our Ruling

The appeal is without merit.

I>Galfo positively identified appellant as the person who stabbed the victim.

Appellant argues that although Galfo testified that he noticed two persons following them, he however failed to specify who these persons were.[34]

We are not persuaded. Contrary to appellant's asseveration, Galfo positively and categorically identified him as the perpetrator of the crime. Galfo testified thus:

ATTY. ALINIO:

Who stabbed Carlito Magan?

WITNESS:

Angelino Yanson.

ATTY. ALINIO:

Where was Angelino Yanson when he stabbed Carlito Magan in relation to the latter?

WITNESS:

At the back of Carlito Magan, to his left.

ATTY. ALINIO:

How far were you from Carlito Magan when Angelino Yanson stabbed Carlito Gambito Magan?

WITNESS:

Around five (5) steps away.

ATTY. ALINIO:

What happened to Carlito Magan when he was stabbed by Angelino Yanson?

WITNESS:

He ran towards me then shouted, "I am hit, I am wounded".

ATTY. ALINIO:

And what did you do when Carlito Magan approached you?

WITNESS:

I was also approaching to help him.

ATTY. ALINIO:

Where was Carlito Magan when you approached him?

WITNESS:

He was lying face down [on] the ground.

ATTY. ALINIO:

In other words, he fell to the ground and he was lying face downward?

WITNESS:

Yes, sir.

ATTY. ALINIO:

When you approached Carlito Magan to help him, what happened?

WITNESS:

I was about to help him but the two (2) of them rushed towards me.

ATTY. ALINIO:

What kind of night was that when you were walking along the road going to your house from the store of Lorna Tamson?

WITNESS:

It was a clear night because there were stars.

ATTY. ALINIO:

Because Angelino Yanson and Rolando Salcedo rushed towards you when you were about to help Carlito Magan, what did you do?

WITNESS:

I ran but looking backward.

ATTY. ALINIO:

When they, meaning Rolando Salcedo and Angelino Yanson rushed towards you what [were] they x x x holding, if any?

WITNESS:

They were holding a knife.

ATTY. ALINIO:

While you were running looking backward, what did you see?

WITNESS:

I saw that they stabbed Carlito several times at the back.

ATTY. ALINIO:

Who stabbed Carlito Magan several times at the back?

WITNESS:

The two (2) of them.

ATTY. ALINIO:

Where was Angelino Yanson in relation to Carlito Magan who was lying face downward while he was stabbing Carlito?

WITNESS:

Carlito was struggling while the other was stabbing him.

ATTY. ALINIO:

What about Rolando Salcedo?

WITNESS:

He was also there x x x.

ATTY. ALINIO:

Where did you proceed?

WITNESS:

I went home to our house.[35]

Galfo's failure to mention appellant in his sworn statement before the police authorities does not militate against Galfo's credibility.

Appellant also asserts that in Galfo's sworn statement before the police officers, he did not identify him as the assailant;[36] that Galfo described him only through his outfit without any mention at all of his features or identifying marks notwithstanding that he (Galfo) was familiar with him.[37] Appellant thus concludes that all

these circumstances create doubt as to whether he was indeed the assailant.

Appellant's contentions deserve scant consideration. A close scrutiny of Galfo's sworn statement reveals that although appellant's name was not specifically mentioned, he was however referred to as the "companion" or "kas-a" of Salcedo.[38] Besides, the failure to specifically mention his name does not foreclose the fact that he was the assailant. It must be recalled that during his testimony in court, Galfo positively and categorically identified appellant as the perpetrator of the crime. As such, any alleged inconsistency in the sworn statement of Galfo vis-a-vis his testimony in open court is more apparent than real. In *Mercado v. People*,[39] we declared that -

x x x [T]his Court had consistently ruled that the alleged inconsistencies between the testimony of a witness in open court and his sworn statement before the investigators are not fatal defects to justify a reversal of judgment. Such discrepancies do not necessarily discredit the witness since ex parte affidavits are almost always incomplete. A sworn statement or an affidavit does not purport to contain a complete compendium of the details of the event narrated by the affiant. Sworn statements taken ex parte are generally considered to be inferior to the testimony given in open court.

x x x x

The discrepancies in [the witness]'s testimony do not damage the essential integrity of the prosecution's evidence in its material whole. Instead, the discrepancies only erase suspicion that the testimony was rehearsed or concocted. These honest inconsistencies serve to strengthen rather than destroy [the witness]'s credibility.

More importantly, Galfo's narration in his sworn statement is consistent in all material points with his testimony in open court, to wit:

7. Q: Can you narrate to me the facts of the incident?

A: That at about 7:30 o'clock in the evening of May 12, 1991, while Carlito Magan and I were drinking at the store of Lorna Tamson at Brgy. Sapal, Jordan, Guimaras, Iloilo, Rolando Salcedo and his companion arrived at the said store and then we drank together and after (30) thirty minutes of drinking, all of us went home wherein Carlito Magan and I were ahead of them but instead of going their way, Rolando Salcedo and his companion followed us and with a distance of about half a kilometer from the place where we drank, they reached us and upon reaching us, without any provocation they stabbed Carlito Magan with their knives and upon seeing the incident, I attempted to help Carlito Magan but they turned on me and so I ran away leaving Carlito Magan with wounds.[40]

People react differently when confronted with a startling or frightful experience.

Appellant next posits that Galfo's behavior after the stabbing incident is not in accord with the normal course of things.[41] Appellant finds it strikingly odd or unusual for Galfo to take a rest for 30 minutes at his house after having witnessed the stabbing incident. Also, he could not fathom why the victim's family would not immediately come to the rescue of their fallen kin after they have been informed about the incident.[42]

This contention deserves no merit. Jurisprudence is replete with pronouncements that people react differently when confronted with a frightful occurrence. Some may react violently while others may exhibit nonchalance or even boredom. "[T]he settled rule is that witnessing a crime is an unusual experience that elicits different reactions from witnesses for which no clear-cut standard of behavior can be drawn. Different people react differently to a given situation. There is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience." [43]

In this case, the fact that Galfo took a 30-minute rest before reporting the incident to the relatives of the victim

does not in any way militate against his credibility. Moreover, that the relatives of the deceased did not immediately come to his succor does not in any way contradict the finding that appellant was the assailant.

The qualifying circumstance of treachery attended the commission of the crime.

Both the trial court and the CA correctly appreciated the qualifying aggravating circumstance of treachery. "There is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. The essence of treachery is that the attack comes without a warning and in a swift, deliberate, and unexpected manner, affording the hapless, unarmed, and unsuspecting victim no chance to resist or escape. For treachery to be considered, two elements must concur: (1) the employment of means of execution that gives the persons attacked no opportunity to defend themselves or retaliate; and (2) the means of execution were deliberately or consciously adopted." [44]

The prosecution established that appellant suddenly stabbed the victim from behind thereby giving him no opportunity to resist the attack or defend himself. As correctly observed by the appellate court:

It is apparent that there was treachery in the killing of [Magan]. As surely testified by [Galfo], [appellant] followed the unsuspecting victim when he was going home and thereafter, deliberately stabbed him in the back which resulted in the falling of [Magan] to the ground and rendering him defenseless to [appellant's] further attacks. Verily, [appellant] employed means which insured the killing of [Magan] and such means assured him from the risk of [Magan's] defense had he made any. It must also be noted that [Magan] was stabbed four times in the back and two of these wounds were the proximate cause of his death. Stabbing from behind is a good indication of treachery x x x [45]

The proper penalty.

Article 248 of the Revised Penal Code (RPC) provides for the penalty of reclusion perpetua to death for the crime of murder. In this case, considering the qualifying circumstance of treachery, and there being no other aggravating or mitigating circumstances, both the trial court and the CA properly imposed the penalty of reclusion perpetua on the appellant, pursuant to Article 63, paragraph 2, of the RPC. [46]

The award of damages.

"[W]hen death occurs due to a crime, the following damages may be awarded: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages." [47]

In this case, we find that the trial court, as affirmed by the CA, correctly awarded the heirs of the deceased P50,000.00 as moral damages. [48] However, as regards the award of civil indemnity, the same must be increased to P75,000.00 in line with prevailing jurisprudence. [49] Civil indemnity is "granted to the heirs of the victim without need of proof other than the commission of the crime;" [50] while "moral damages are awarded despite the absence of proof of mental and emotional suffering of the victim's heirs." [51]

Anent the award of actual damages, we find that the CA correctly deleted the same. The victim's mother, Aquilina Magan, who was presented to prove the civil liability of the appellant [52] acknowledged having lost the receipts. [53] Thus, the CA correctly awarded P25,000.00 as temperate damages in lieu of actual damages. [54] "Under Article 2224 of the Civil Code, temperate damages may be recovered as it cannot be denied that the heirs of the victim suffered pecuniary loss although the exact amount was not proved." [55]

Likewise, the heirs of Magan is also entitled to an award of exemplary damages. "An aggravating circumstance,

whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code. The award of P30,000.00 as exemplary damages is, therefore, proper under current jurisprudence."^[56]

Anent the award of P20,000.00 as attorney's fees, we note that the same has not been assailed. Hence, we sustain its award.

Finally, consistent with the current policy, "we also impose on all the monetary awards for damages an interest at the legal rate of 6% from date of finality of this Decision until fully paid."^[57]

WHEREFORE, the appeal is DENIED. The assailed July 21, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00115 is AFFIRMED with MODIFICATIONS. Appellant Angelino Yanson is found GUILTY beyond reasonable doubt of MURDER, and is hereby sentenced to suffer the penalty of reclusion perpetua. Appellant is also ordered to pay the heirs of Carlito Magan the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, P30,000.00 as exemplary damages and P20,000.00 as attorney's fees. All monetary awards for damages shall earn interest at the legal rate of 6% from date of finality of this Decision until fully paid.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] CA rollo, pp. 25-41; penned by Judge Merlin D. Deloria.

[2] Rollo, pp. 5-12; penned by Associate Justice Vicente L. Yap and concurred in by Associate Justices Arsenio J. Magpale and Romeo F. Barza.

[3] Records, p. 1.

[4] Id.

[5] Id. at 92.

[6] TSN, November 20, 1991, pp. 22-23.

[7] Id. at 23-24.

[8] Id. at 25.

[9] Id. at 27.

[10] Id. at 28.

[11] Id.

[12] Id. at 29-32.

[13] Id. at 2.

[14] Id. at 5-11.

[15] Id. at 12.

[16] TSN, December 16, 1993, p. 9.

- [17] Id. at 7.
- [18] Id. at 18.
- [19] Id. at 19.
- [20] Id. at 19.
- [21] Id. at 20.
- [22] Records, p. 546.
- [23] Id. at 548.
- [24] Id. at 548.
- [25] Id. at 548-549.
- [26] Id. at 552-561.
- [27] Id. at 574.
- [28] Id. at 576.
- [29] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [30] CA rollo, p. 90.
- [31] Id. at 127.
- [32] Rollo, p. 18.
- [33] Resolution dated July 28, 2008; id., unpagued.
- [34] CA rollo, p. 68.
- [35] TSN, November 20, 1991, pp. 29-32.
- [36] CA rollo, p. 68.
- [37] Id. at 69.
- [38] Records, pp. 5-5A.
- [39] G.R. No. 161902, September 11, 2009, 599 SCRA 367, 379 citing Decasa v. Court of Appeals, G.R. No. 172184, July 10, 2007, 527 SCRA 267.
- [40] Records, p. 5.
- [41] CA rollo, p. 69.
- [42] Id. at 69-70.
- [43] People v. Labitad, 431 Phil. 453, 458 (2002).
- [44] People v. Dela Cruz, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 747.
- [45] CA rollo, p. 126.
- [46] Article 63 of the Revised Penal Code provides in part:

x x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[47] People v. Del Rosario, G.R. No. 189580, February 9, 2011.

[48] Id.

[49] People v. Campos, G.R. No. 176061, July 4, 2011.

[50] Id.

[51] Id.

[52] TSN, September 24, 1992, p. 3.

[53] Id. at 4.

[54] People v. Del Rosario, supra note 47.

[55] People v. Campos, supra note 49.

[56] People v. Del Rosario, supra note 47.

[57] People v. Campos, supra note 49.

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