

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROY SAN GASPAR, ACCUSED-APPELLANT.

G.R. No. 180496. April 02, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

On appeal is the July 31, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00237, which affirmed with modification the January 29, 2003 Decision[2] of the Regional Trial Court (RTC), Branch 19 of Isulan, Sultan Kudarat in Criminal Case No. 2679. The RTC convicted Roy San Gaspar (appellant) of the crime of Parricide under Article 246 of the Revised Penal Code (RPC) and imposed upon him the penalty of reclusion perpetua.

Factual Antecedents

On June 2, 2000, appellant was charged with the crime of Parricide under Article 246 of the RPC in an Information[3] which reads as follows:

That on or about 11:30 o'clock in the evening of April 25, 1999, at Purok Ma-oy, Barangay Bambad, Municipality of Isulan, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a [.12] Gauge Homemade Shotgun, with intent to kill, did then and there, [willfully], [unlawfully] and feloniously, attack, assault and shot IMELDA E. SAN GASPAR, his legitimate wife, thereby inflicting gunshot wound upon the latter, which directly caused her death.

CONTRARY TO LAW, particularly Article 246 of the Revised Penal Code of the Philippines, as amended by Republic Act 7659.[4]

Upon being arraigned on July 12, 2000, appellant, with the assistance of counsel, pleaded not guilty to the crime charged.[5] After pre-trial was terminated, trial on the merits ensued.

Version of the Prosecution

The following witnesses testified for the prosecution: Joramel Estimo (Joramel) and Cherme Estimo (Cherme), children of the victim Imelda E. San Gaspar (Imelda) and stepchildren of the appellant; Norman Estimo, the brother of Imelda who spent for her wake and funeral services; PO3 Rannie Arroza (PO3 Arroza), the officer on duty who investigated the incident; and Dr. Flocerpida V. Jocson (Dr. Jocson), the Municipal Health Officer who conducted the autopsy on the body of the victim. Their collective testimonies are summarized as follows:

In the afternoon of April 25, 1999, appellant, without informing his lawfully married wife Imelda, went to Norala, South Cotabato together with his father to attend the funeral of a relative.[6] At that time, appellant and Imelda were not on speaking terms for about a week already.[7]

At around 11:30 p.m. of the same day and while Imelda and her two children Joramel and Cherme were already fast asleep, appellant returned home and pounded on their front door. The thudding sound roused the whole

household. Apparently, appellant was mad because nobody immediately opened the door for him. He got even more furious when he entered the house and saw Imelda sleeping side-by-side with her grown-up children. Appellant thus kicked Imelda on the leg while she was still lying on the floor and this started a heated altercation between them.[8] Appellant exclaimed, “What kind of wife [are you?],”[9] to which Imelda retorted, “what kind of a husband is a person who just leaves his family behind without asking permission or informing his wife of his whereabouts”? Imelda also told appellant that her sleeping with Joramel and Cherme is without any malice as they are her children.

Still enraged, appellant went upstairs and returned with a .12 gauge shotgun. He loaded it and lit a kerosene lamp which he placed near the door of their room.[10] He then aimed the .12 gauge shotgun at his wife and in front of Joramel and Cherme, shot Imelda on the head.[11] Appellant thereafter immediately ran away.[12] Imelda was brought to Sultan Kudarat Provincial Hospital where she passed away.

The Municipal Health Officer of Isulan, Sultan Kudarat, Dr. Jocson, conducted an autopsy on Imelda’s body. According to the Autopsy Report,[13] the cause of death was craniocerebral injury secondary to gunshot wound. Imelda suffered a fatal gunshot wound on the front left side of her head which penetrated her brain tissue with a depth of six inches.[14] Gunpowder residue surrounded the entry wounds, an indication that the distance of the barrel of the gun from the victim could not have been more than six feet.[15] In other words, Imelda was shot at close-range.

Version of the Defense

The defense, on the other hand, presented the following witnesses: Librada San Gaspar, the mother of the appellant; Vicente Martinez (Vicente), the owner of the tricycle used in transporting Imelda to the hospital; and the appellant himself. Their testimonies are summarized as follows:

In the morning of April 25, 1999, appellant went to Norala, South Cotabato with his father to attend the funeral of a relative.[16] He returned home by himself at around 7:00 p.m. just to change clothes and again returned to Norala after asking permission from Imelda.[17] Imelda and her two children from her previous relationship, Joramel and Cherme, were left behind in their house.

It was already around 11:00 p.m. when appellant came home. But as he pushed the door to enter their room, he heard a gunshot from a .12 gauge shotgun.[18] Since it was dark, appellant rushed downstairs to fetch a lamp to see what had just happened.[19] With a lit lamp, he saw Imelda lying on the floor drenched in her own blood. Joramel and Cherme were beside her crying. Appellant thus immediately went out of their house to look for a tricycle to transport Imelda to the hospital.[20] Using Vicente’s tricycle, they then brought Imelda to the Sultan Kudarat Provincial Hospital.[21] Thereafter, PO3 Arroza brought appellant to the police station for investigation. After questioning, he was detained at the Municipal Jail of Isulan.[22]

From the above narration, the defense postulates that when appellant pushed the door open, it hit the shotgun, causing it to accidentally discharge and hit Imelda.

Ruling of the Regional Trial Court

The RTC in its Decision[23] on January 29, 2003 convicted appellant of the crime of Parricide, viz:

WHEREFORE, upon all the foregoing considerations, the Court finds the accused, Roy San Gaspar, guilty beyond a reasonable doubt of the crime of PARRICIDE.

Accordingly, the Court hereby sentences the accused, Roy San Gaspar, to suffer the penalty of RECLUSION PERPETUA; to indemnify:

(a)- Norman Estimo the amount of P20,800.00, representing the total expenses he incurred by reason of the death, wake and burial of the deceased victim, Imelda Estimo San Gaspar, who was buried in Midsayap, Cotabato;

(b)- the heirs of the said deceased victim, the amount of P50,000.00, as statutory indemnity to death; as well as, the reasonable amount of P30,000.00, by way of moral damages; and the further sum of P20,000.00, as exemplary damages; and

to pay the costs.

Being a detention prisoner, the accused, Roy San Gaspar, is entitled to full credit of the entire period of his preventive imprisonment, pursuant to Article 29 of the Revised Penal Code, as amended by R.A. No. 6127, provided that the said accused had agreed in writing to abide by the same disciplinary rules and regulations imposed upon convicted prisoners, otherwise, with only four-fifths (4/5) thereof.

IT IS SO ORDERED.[24]

The RTC relied on the testimonies of the witnesses for the prosecution particularly, Joramel and Cherme. Having witnessed the shooting incident, both of them positively identified appellant as the person who shot their mother, Imelda. To the RTC, such positive identification, without any showing of ill-motive on the part of the eyewitnesses, was enough to establish the guilt of the appellant beyond reasonable doubt.[25] On the other hand, the RTC found appellant's defense of denial doubtful and unreliable. It further held that denial is a weak defense and that the same cannot prevail over the eyewitnesses' positive identification of appellant as the culprit.[26]

Ruling of the Court of Appeals

On appeal, the CA affirmed with modification the Decision of the RTC through a Decision[27] dated July 31, 2007, the dispositive portion of which states:

WHEREFORE, the assailed Decision of 29 January 2003 of the Regional Trial Court of Isulan, Sultan Kudarat, Branch 19 in Criminal Case No. 2679 convicting appellant Roy San Gaspar of parricide under Article 246 of the Revised Penal Code and sentencing him to suffer the penalty of reclusion perpetua is hereby AFFIRMED with the modification that he is ordered to pay the heirs of Imelda Estimo the sums of P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P25,000.00 as temperate damages.

SO ORDERED.[28]

The CA held that since appellant asserted that the shooting was accidental, it was incumbent upon him to prove the existence of the elements of the exempting circumstance of accident.[29] However, he failed to discharge this burden. Furthermore, appellant's version of the circumstances leading to Imelda's death was incredulous. Contrary to his claim of accidental firing of the shotgun, the trajectory of the gunshot and the gunpowder burns around Imelda's wound suggest that the shooting was intentional.[30]

Not satisfied, appellant now appeals to this Court asserting that the lower courts erred in not giving exculpatory weight to the defense he interposed.

The Parties' Argument

Appellant in his Supplemental Brief[31] argues that the lower courts erred in not giving exculpatory weight to his defense that the shooting of Imelda was entirely accidental. He alleges that it was when he pushed the door of their room that he heard the bursting sound of the .12 gauge shotgun. Clearly, therefore, the proximate cause of the discharge of the shotgun that hit Imelda and eventually led to her death was the movement of their bedroom

door. On the other hand, appellant labels the prosecution's version of what transpired as "unnatural, implausible, and contrary to human nature and experience." [32] He asserts that his act of immediately taking Imelda to the hospital after seeing her shot is contrary to the prosecution's claim that it was he who shot her. He avers that if that was the case, it would have been more plausible for him to immediately flee from the crime scene. But instead, he went out to find any means of transportation to rush her to the hospital.

On the other hand, the appellee People of the Philippines, as represented by the Office of the Solicitor General (OSG), agrees with the lower courts in finding appellant guilty of the crime of Parricide. It argues that appellant's defense of denial is weak considering that he failed to rebut the testimonies of Joramel and Cherme that a heated altercation between him and Imelda immediately preceded the shooting. [33] Furthermore, appellant failed to establish any ill motive on the part of his stepchildren to falsely impute a serious crime against him.

Our Ruling

The appeal has no merit.

Elements of Parricide obtaining in this case; Factual findings of the trial court, as affirmed by the CA, cannot be disturbed.

"Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of the accused." [34]

In this case the prosecution was able to satisfactorily establish that Imelda was shot and killed by appellant based on the eyewitnesses' account. Joramel narrated the details of the shooting incident as follows:

[Fiscal Alamada]: Now what happened after your step[father], Roy San Gaspar, arrived and entered the house?

[Joramel]: He saw us sleeping and I was sleeping beside my mother.

x x x x

Q:

And after he noticed that you and the rest of your sisters were sleeping together in that one room with your mother, what did your step[father] do?

A:

He got mad, sir.

Q:

Why did you say that he got mad, how did you know that he got mad?

A:

He got mad because [he was] not [on] talking terms with my mother x x x [and] because the door was not opened for him immediately.

x x x x

Q:

Upon entering the room [and] having seen that you were all sleeping together near each other with your

mother, what did your step[father] say[,] if [any]?

A:

He said, it is [not] good that you were sleeping side by [side] with your children.

Q:

And what was the remark of your mother?

A:

My mother told him that do not give any malice because they are my children.

Q:

And after that, what happened?

A:

He kicked my mother, sir.

x x x x

Q:

And now, what followed x x x after your mother confronted her husband of being kicked by him?

A:

He got the firearm upstairs, sir.

Q:

Now, what kind of firearm was that?

A:

.12 gauge.

x x x x

Q:

Now, after your stepfather [had] taken from upstairs this firearm xxx, what happened next?

A:

He loaded it, sir.

Q:

With what?

A:

With bullet.

x x x x

Q:

And what did he do with the firearm after getting it from upstairs and after loading the same?

A:

He used that in shooting my mother.

Q:

Was your mother hit?

A:

Yes, sir.

Q:

Where was [s]he hit?

A:

On her head.[35]

Cherme, on the other hand, corroborated the testimony of her brother on material points. Thus:

[Fiscal Alamada]: After your step[father] kicked your mother, what happened?

[Cherme]:

After my step[father] kicked my mother they discussed and my step[father] took the long firearm and [lit] the lamp and placed [it] near the door, sir.

x x x x

Q:

And after your step[father] took that firearm, what did he do?

A:

He shot my mother, sir.

x x x x

Q:

Where were you at the time when your step[father] shot your mother?

A:

I was [beside] my mother.

Q:

How about this [Joramel], where was he?

A:

He was also [beside] my mother, sir.[36]

Joramel and Cherme positively and categorically identified appellant as the one who shot and killed Imelda. Their testimonies corroborated each other on material details. Moreover, there is no showing that Joramel and Cherme

were impelled by any ill motive to testify against appellant. It has been held that in the absence of any ill motives on the part of the witnesses, their testimonies are worthy of full faith and credit.[37] On the other hand, appellant only offered his bare denial of the offense. However, “[t]he Court had consistently stressed that denial, like alibi, is a weak defense that becomes even weaker in the face of positive identification of the accused by prosecution witnesses.”[38] The Court, therefore, finds no reason to disturb the factual findings of the trial court. “It is a well-settled rule that factual findings of the trial court involving the credibility of witnesses are accorded respect since trial courts have first-hand account on the witnesses’ manner of testifying and demeanor during trial. The Court shall not supplant its own interpretation of the testimonies for that of the trial judge since he is in the best position to determine the issue of credibility.”[39] Furthermore, “in the absence of misapprehension of facts or grave abuse of discretion on the court a quo, and especially when the findings of the judge have been adopted and affirmed by the CA, the factual findings of the trial court shall not be disturbed.”[40]

Anent the relationship of appellant and Imelda as legitimate husband and wife, the CA correctly observed that the same has been sufficiently established by appellant’s admission[41] that Imelda was his wife and by a copy of their Marriage Certificate[42] presented during trial.[43]

Clearly, all the elements of the crime of Parricide under Article 246 of the RPC are present in this case.

Appellant’s defense of accident deserves no credence.

While appellant describes the prosecution’s version of events as “unnatural, implausible, and contrary to human nature and experience,”[44] the Court finds that it is his story of accidental discharge of the shotgun that is incredulous and unbelievable. Contrary to what appellant wants this Court to believe, a .12 gauge shotgun will not go off unless it is loaded, cocked, and its trigger squeezed. To this Court, appellant’s allegation is nothing but a self-serving statement without an ounce of proof or a lick of credibility. Moreover, the same does not jibe with the result of the autopsy conducted on Imelda’s body. As aptly observed by the CA:

x x x We reject appellant’s testimony for it failed to explain how and why the victim sustained a gunshot wound on her forehead. If the .12 gauge firearm fell, why was the trajectory of the bullet frontal? And, why was there gunpowder burns around the wound of the victim, suggesting that the assailant was not more than six (6) feet away from the victim? There is nothing [nearer to] the truth than the testimony of the attending physician who examined Imelda on this matter:

Atty. Ramos : Will you be able to know what was the trajectory of that injury sustained by the victim?

Dra. Jocson : It is in the front, sir.

xxx xxx xxx

Court : Will you kindly tell us, [D]octor, about how far is the barrel of the gun from the victim in order that gunpowder burn could be noticed around the wound?

A : At least not more than six feet from the victim, your

[H]onor.

xxx xxx xxx

Q : Will you please point to us, [D]octor, the location of the gunshot wound on the face?

A : Left aspect of the frontal, your [H]onor. (witness pointing to the left portion of the forehead.

We thus entertain no reasonable doubt as to appellant’s culpability. The location of the gunshot wound with

gunpowder burns clearly shows that the shooting was not accidental, but rather indicative of an intentional killing.
x x x[45]

All told, the Court sustains the trial court's conviction of appellant, as affirmed by the CA, of the crime of Parricide.

Penalties

Article 246 of the RPC provides that the penalty for the crime of Parricide is Reclusion Perpetua to Death. The RTC and the CA correctly imposed upon appellant the penalty of reclusion perpetua, which is the lower of the two indivisible penalties, due to the absence of any aggravating circumstances in the commission of the crime.[46] However, appellant is not eligible for parole.[47]

The Court also affirms the awards of civil indemnity and moral damages in the amount of P50,000.00 each.[48] The CA's award of temperate damages must also be sustained. In *People v. Andres*[49] and *People v. Magdaraog*[50] the Court said:

“[W]e declared in the case of *People v. Villanueva*, that:

x x x when actual damages proven by receipts during the trial amount to less than P25,000.00, as in this case, the award of temperate damages for P25,000.00 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds P25,000.00, then the temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.

The victim's heirs should, thus, be awarded temperate damages in the amount of P25,000.00.”

Since the receipt presented during trial covering the funeral services only amounted to P15,000.00, the CA's award of P25,000.00 as temperate damages in lieu of actual damages is in order.

In addition and pursuant to prevailing jurisprudence, an increased amount of P30,000.00 as exemplary damages on account of relationship, a qualifying circumstance which was alleged and proved, must likewise be awarded in the crime of parricide.[51]

WHEREFORE, the appeal is DISMISSED. The July 31, 2007 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00237 which affirmed with modification the January 29, 2003 Decision of the Regional Trial Court of Isulan, Sultan Kudarat, Branch 19 in Criminal Case No. 2679, finding appellant Roy San Gaspar guilty of the crime of Parricide and sentencing him to suffer the penalty of reclusion perpetua, is hereby AFFIRMED with modifications that appellant is not eligible for parole and the award of exemplary damages is increased to P30,000.00. In addition, an interest of 6% per annum is imposed on all monetary awards from the date of finality of this Decision until fully paid.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Perlas-Bernabe, JJ., concur.

[1] CA rollo, pp. 130-146; penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Romulo V. Borja and Elihu A. Ybañez.

[2] Records, pp. 94-121; penned by Judge German M. Malcampo.

[3] Id. at 20-21.

[4] Id. at 20.

- [5] Id. at 27.
- [6] TSN, April 20, 2001, p. 4.
- [7] TSN, April 18, 2001, p. 13.
- [8] TSN, April 18, 2001, pp. 13-14; TSN, April 20, 2001, p. 5.
- [9] TSN, April 20, 2001, p. 6.
- [10] TSN, April 18, 2001, pp. 34-39.
- [11] Id. at 17-18.
- [12] Id. at 19.
- [13] Records, p. 10.
- [14] Id.
- [15] Id. at 109.
- [16] TSN, May 16, 2001, p. 2.
- [17] Id. at 2-3.
- [18] Id. at 4-5.
- [19] Id. at 5.
- [20] Id.
- [21] Id. at 6-7; TSN, June 7, 2001, pp. 2-4.
- [22] TSN, April 23, 2002, p. 6.
- [23] Records, pp. 94-121.
- [24] Id. at 120-121.
- [25] Id. at 118.
- [26] Id.
- [27] CA rollo, pp. 130-146.
- [28] Id. at 146.
- [29] Id. at 143.
- [30] Id. at 144.
- [31] Rollo, pp. 31-38.
- [32] Id. at 32.
- [33] CA rollo, p. 116.
- [34] *People v. Sales*, G.R. No. 177288, October 3, 2011, 658 SCRA 367, 379.
- [35] TSN, April 18 2001, pp. 12-17.

[36] TSN, April 20, 2001, pp. 7-8.

[37] *People v. Jumamoy*, G.R. No. 101584, April 7, 1993, 221 SCRA 333, 344.

[38] *People v. Macatingag*, 596 Phil. 376, 389 (2009).

[39] *People v. Ramos*, G.R. No. 190340, July 24, 2013.

[40] *Id.*

[41] TSN, May 16, 2001, p. 2.

[42] Records, p. 6.

[43] CA rollo, p. 145.

[44] Rollo, p. 32.

[45] CA rollo, p. 144.

[46] REVISED PENAL CODE, Article 63, paragraph (2).

[47] Sec. 3 of Republic Act No. 9346 (An Act Prohibiting the Imposition of Death Penalty in the Philippines, approved June 24, 2006) provides:

Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

[48] *People v. Maglian*, G.R. No. 189834, March 30, 2011, 646 SCRA 770, 784.

[49] 456 Phil. 355, 369-370 (2003).

[50] G.R. No. 151251, May 19, 2004, 428 SCRA 529, 543.

[51] *People v. Tibon*, G.R. No. 188320, June 29, 2010, 622 SCRA 510, 523.

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