

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EMILIO MANCHU ALIAS NONGNONG MANCHU AND JOHN DOES, APPELLANTS.

G.R. No. 181901. November 28, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

On appeal is the March 13, 2007 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00198 which affirmed the decision[2] rendered by Branch 23 of the Regional Trial Court of Allen, Northern Samar, finding appellant Emilio Manchu guilty beyond reasonable doubt of murder.

In an Information[3] dated October 1, 1998, Emilio Manchu (appellant) was charged with murder committed as follows:

That on or about the 5[th] day of August, 1998 at about 10:00 o'clock in the evening, more or less, at Barangay Libertad, Municipality of Lavezares, Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with deadly weapon locally known as "sundang", conspiring, confederating together and mutually helping one another, with intent to kill, evident premeditation and treachery, and without any justifiable cause, did, then and there, wilfully, feloniously, attack, assault and hack one Roque Cupido with said weapon, which the herein accused had provided themselves for the purpose thereby inflicting upon said Roque Cupido wounds on his body, which wounds caused the instantaneous death of the latter.

With the aggravating circumstance that the crime was committed at night time.

CONTRARY TO LAW.

Manchu pleaded not guilty. Trial on the merits then ensued.

The prosecution's version of the facts, as summarized by the Office of the Solicitor General (OSG), follows:

Prosecution witness Enerito Cupido, Jr. testified that he has been a resident of Brgy. Enriqueta, Lavezares, Northern Samar for around 19 years. (TSN dated June 22, 1999, pp. 2-3). Victim Roque Cupido y Gregorio is his eldest brother (Id., p. 3). He and the victim live with their parents, brothers and sisters at their residence in Purok I of said Brgy. Enriqueta (Id., p. 4). He knows appellant who happens to be the husband of his sister Salvacion Cupido (Id., p. 4). Appellant and his wife reside at Brgy. Aguada, Rosario, Northern Samar, which is around 3 kilometers away from Purok I (Id., p. 5). According to the witness, appellant was very lazy and it was their sister Salvacion who earned a living for the family (Id., p. 5). This angered the victim, thus, prompting him to fetch her sister and take her away from appellant while the latter was not at their home (Id., pp. 5-6). When the victim arrived at their home, the witness heard him saying, "I took Nene because life is hard for her" (Id., p. 7). Salvacion stayed with her mother and small child at Libertad Proper and sometimes at their family's farm also located at Libertad (Id., p. 6&9). When appellant tried to fetch his wife, the victim's mother refused and this angered appellant (Id., p. 8). On the night of August 5, 1998, at around 10:00 o'clock in the evening, Enerito, the victim and the appellant's 6-year-old child were at their family's farm located in Brgy. Libertad (Id., p. 10). While Enerito was near a banana plant located around 5 arms' length from their farm house and the

victim was resting inside their farm house, 3 persons arrived and witness hid himself (Id., pp. 10-11) Enerito clearly identified appellant as he entered the house while the latter's two other companions waited outside since there was a kerosene lamp lighted inside the house, the moon was bright and appellant's companions beamed their flashlights towards appellant (Id., pp. 11-13 & 16-17/TSN dated September 28, 1999, p. 14). While appellant was inside the farm house, Enerito heard a knocking sound and appellant's companions entered the house (Id., p. 12). Moments later, Enerito saw the trio go out of the house carrying with them the victim to a distance around 40 meters towards the back of the farm house (Id., pp. 12-13/TSN dated September 28, 1999, p. 15) Appellant did not harm his (appellant's) son who was sleeping inside the house (Id., p. 14). Enerito cried as he was not able to do anything since the trio were (sic) armed with bolos and thereafter informed his parents (Id., p. 13, TSN dated September 28, 1999, p. 13). They sought the assistance of their barangay officials at around 2:00 o' clock in the morning and they were advised to wait for the following morning as the victim was already dead (Id., p. 16). The following morning they found the victim's body around 40 meters away from their farm house (Id., pp. 14-15).[4]

Dr. Ethel Simeon, the Municipal Health Officer of Lavezares, Northern Samar, autopsied Roque. She found the cause of death to be a hacking wound secondary to hemorrhage. According to Dr. Simeon, Roque sustained a single wound beginning at the left portion of the neck almost severing the same, leaving only a portion of the skin located at the right lateral neck to hold the victim's neck in place. Such injury, she added, had been caused by a "sharp heavy object, like a bolo." [5]

Appellant's defense consisted of denial and alibi. He averred that on August 5, 1998, he was fishing at Barobungdo from 5 o'clock in the afternoon until 4 o'clock in the morning the following day. His testimony was corroborated by his alleged companions Amador Calixto and Rolando Escala.

The trial court, however, disbelieved appellant's defense and rendered a judgment of conviction, viz.:

WHEREFORE, viewed in the light of the foregoing, the Court finds accused Emilio Manchu alias Nongnong guilty beyond reasonable doubt of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code. The aggravating circumstance of nighttime being absorbed in treachery, there is then no modifying circumstances for consideration. Accused Emilio Manchu alias Nongnong is sentenced to suffer an indivisible penalty of Reclusion Perpetua which is the medium period of penalty imposable. Likewise, accused Emilio Nongnong Manchu is ordered to pay the heirs of the victim the following:

- Fifty Thousand Pesos (P50,000.00) as indemnification for the death of the victim;
- Fifty Thousand Pesos (P50,000.00) for moral and exemplary damages, but without subsidiary imprisonment in case of insolvency; and
- To pay the Costs.

The recorded detention of Emilio Nongnong Manchu is deductible in full from the penalty imposed herein.

SO ORDERED.[6]

Initially, this case was brought to this Court for review, docketed as G.R. No. 152828.

In his brief, appellant assigned the following errors allegedly committed by the trial court:

I

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED BASED ON CIRCUMSTANTIAL EVIDENCE.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE ABSENCE OF POSITIVE IDENTIFICATION.[7]

The Office of the Solicitor General (OSG) also filed its Brief,[8]asserting that appellant's guilt of murder was proved beyond reasonable doubt.[9]

However, on November 22, 2004, the Court ordered the transfer of this case to the Court of Appeals, consistent with the ruling in *People v. Mateo*.[10]

On March 13, 2007, the Court of Appeals (CA) promulgated the assailed Decision affirming appellant's conviction. The dispositive portion of the Decision reads:

WHEREFORE, this appeal is DENIED and the guilty verdict handed down by the court a quo is UPHELD in its totality.

SO ORDERED.[11]

Appellant is now before the Court reiterating his contention. Both the OSG and the Public Attorney's Office (PAO), counsel for the accused, replicated the arguments in their respective briefs filed during the pendency of this case for review and prior to its transfer to the CA.

Appellant insists that both the trial court and the CA erred in convicting him of the crime charged on the basis of circumstantial evidence. Essentially, he contends that the prosecution's evidence is entirely circumstantial and does not satisfy the quantum of proof necessary for conviction.

We disagree.

At the outset, we may well emphasize that direct evidence of the commission of a crime is not the only basis from which a court may draw its finding of guilt. Established facts that form a chain of circumstances can lead the mind intuitively or impel a conscious process of reasoning towards a conviction.[12] Section 4, Rule 133 of the Rules on Evidence recognizes that circumstantial evidence is adequate for conviction, as follows:

SEC. 4. Circumstantial evidence when sufficient. — Circumstantial evidence is sufficient for conviction if:

(a)

There is more than one circumstance;

(b)

The facts from which the inferences are derived are proven; and

(c)

The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In rendering the guilty verdict, the RTC found the following circumstances as ample proof of appellant's guilt:

- The principal motive of the killing of Roque Cupido as testified to by Enerito Cupido, Jr. - that his elder brother Roque Cupido was instrumental in separating his sister Salvacion from Emilio Nongnong Manchu as husband and wife. Because of this incident, Emilio Nongnong Manchu has every reason to begrudge or an axe to grind against Roque Cupido.

- That at about 10:00 o'clock in the evening of August 5, 1998, Enerito Cupido, Jr., while he was in their farm in Barangay Libertad, Lavezares, Northern Samar, [saw that] three (3) persons entered their house where his brother was sleeping. Only one person entered inside (sic) the house, the other two persons were by the door.

- Then Enerito Cupido, Jr, heard a knocking sound and he became apprehensive. He recognized the person who first entered their house as that (sic) of his brother-in-law. He was able to recognize Nongnong Manchu through the beam of the moon as it was a moonlight (sic) [night]; and further, the three persons were carrying flashlight at that time.

- After the knocking sound, Enerito Cupido, Jr,. further testified, the two (2) persons who were staying by the door, entered inside (sic) the house and carried the dead body of his brother Roque Cupido. He recognized the object carried by the three malefactors to be that of his brother Roque because he was the only one left in the house together with his nephew when he tethered his carabaos.

- Enerito Cupido, Jr. further observed that the cadaver of his brother Roque Cupido, Jr. (sic) was carried by the three persons behind their house at the lower portion where there was a stream, or at a distance of about forty (40) meters away from their house.

- Enerito Cupido, Jr. was not seen by the three (3) persons as he hide (sic) behind the banana plants after tethering his carabaos. He did not follow the three persons because he was afraid as the three persons were armed with bolos.

- After the incident, Enerito Cupido, Jr. immediately went to Barangay Enriqueta to inform his parents regarding the incident. On the following morning of August 6, 1998, he returned back to Barangay Libertad in company with policemen and barangay officials. They found the dead body of Roque Cupido in the bushes, about forty (40) meters away from their house.[13]

We are in full accord with the RTC and the CA that the circumstances enumerated above sufficiently point to appellant as the author of the crime. All these established circumstances, taken together, form an unbroken chain of events that point to the culpability of appellant and to no other conclusion except his guilt.

Enerito positively identified appellant as one of the authors of the crime. Positive identification may be provided not only by a witness actually identifying an accused as the one who perpetrated the crime but also by one who has seen the accused at the scene of the crime on or about the time of the alleged incident. As this Court explained in *Baleros, Jr. v. People*:[14]

Positive identification pertains essentially to proof of identity and not per se to that of being an eyewitness to the very act of commission of the crime. There are two types of positive identification. A witness may identify a suspect or accused as the offender as an eyewitness to the very act of the commission of the crime. This constitutes direct evidence. There may, however, be instances where, although a witness may not have actually witnessed the very act of commission of a crime, he may still be able to positively identify a suspect or accused as the perpetrator of a crime as when, for instance, the latter is the person or one of the persons last seen with the victim immediately before and right after the commission of the crime. This is the second type of positive identification, which forms part of circumstantial evidence. In the absence of direct evidence, the prosecution may resort to adducing circumstantial evidence to discharge its burden. Crimes are usually committed in secret and under condition[s] where concealment is highly probable. If direct evidence is insisted under all circumstances, the prosecution of vicious felons who committed heinous crimes in secret or secluded places will be hard, if not well-nigh impossible, to prove. (Emphasis supplied)

Appellant attempts to cast doubt on the identification made by Enerito on the ground of inadequate lighting at the locus criminis. He contends that the poor illumination at the crime scene made positive identification impossible or, at best, unreliable; thus, the trial court should not have accepted the identification of the appellant as one of the malefactors.

The argument does not persuade.

Enerito's testimony disproves the poor illumination claim of appellant. As aptly explained by the CA:

He was able to identify accused-appellant because he is familiar with the latter's face, being the common-law husband of [his] sister and there was illumination coming from the flashlights which the three malefactors carried, kerosene lamp inside the hut and from the moon.[15]

Such luminosity, together with the familiarity of Enerito with appellant, was more than sufficient to enable him to identify the felon. When the conditions of visibility are favorable, as in this case, the eyewitness identification of appellant as the malefactor and the specific acts constituting the crime should be accepted.[16] Likewise, it was not impossible for Enerito to have positively identified appellant because he was hiding in a place that was a mere five meters away from the crime scene. Appellant's attack on the positive identification by Enerito must, therefore, fail.

It should be emphasized that the testimony of a single witness, if positive and credible, is sufficient to support a conviction even in the charge of murder.[17]

In this case, both the trial court and the appellate court found Enerito's testimony credible. It is doctrinal that findings of trial courts on the credibility of witnesses deserve a high degree of respect and will not be disturbed on appeal absent a clear showing that the trial court had overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could reverse a judgment of conviction. In fact, in many instances, such findings are even accorded finality. This is so because the assignment of value to a witness' testimony is essentially the domain of the trial court, not to mention that it is the trial judge who has the direct opportunity to observe the demeanor of a witness on the stand, which opportunity provides him the unique facility in determining whether or not to accord credence to the testimony or whether the witness is telling the truth or not.[18]

Appellant's lackluster defenses of denial and alibi fail to cast doubt on the positive identification made by Enerito and the continuous chain of circumstances established by the prosecution. We have consistently held that alibi and denial being inherently weak cannot prevail over the positive identification of the accused as the perpetrator of the crime. They are facile to fabricate and difficult to disprove, and are thus generally rejected.[19]

Besides, for the defense of alibi to prosper, the accused must prove not only that he was at some other place at the time of the commission of the crime but also that it was physically impossible for him to be at the locus delicti or within its immediate vicinity.[20] Apart from testifying that he was fishing at Barobungdo from 5 o'clock in the afternoon until 4 o'clock in the morning the following day, appellant was unable to show that it was physically impossible for him to be at the scene of the crime.

Neither will the testimonies of Amador Calixto and Rolando Escala exculpate appellant from the charge against him. The testimonies of Calixto and Escala sounded so perfect that instead of inspiring belief, they become suspect. The perfect congruence in their testimonies reveals that they are rehearsed witnesses.

A witness whose testimony is so perfect in all aspects, without a flaw and remembering even the minutest details which jibe beautifully with one another, lays himself or herself open to the suspicion of having been coached or having memorized statements earlier rehearsed.[21]

Further, being close friends of the appellant, their credibility is highly suspect.

Between the categorical statements of the prosecution witness, on one hand, and the bare denial of the appellant, on the other, the former must perforce prevail. An affirmative testimony is far stronger than a negative testimony especially when it comes from the mouth of a credible witness. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law. They are considered with suspicion and always received with caution, not only because they are inherently weak and unreliable but

also because they are easily fabricated and concocted.[22] Appellant's challenge of his conviction is starkly puerile.

We shall now determine the propriety of the penalties imposed by the RTC on appellant.

Appellant was sentenced to suffer an indivisible penalty of Reclusion Perpetua, which according to the RTC, is the medium period of the penalty imposable.

The prescribed penalty for murder under Article 248 of the Revised Penal Code (RPC) is reclusion perpetua to death, which are indivisible penalties that do not provide for a medium period. It is, therefore, error for the RTC and the CA to declare that reclusion perpetua is the medium period of the imposable penalty.

Article 63 of the RPC provides that when the penalty is composed of two indivisible penalties, and there are no aggravating or mitigating circumstances, the lesser penalty shall be applied. Considering that there is no mitigating or aggravating circumstance in the present case, and treachery cannot be considered as an aggravating circumstance as it was already considered as a qualifying circumstance, the lesser penalty of reclusion perpetua should be imposed. Accordingly, the penalty imposed by the RTC is correct, although for the wrong reason.

And now on the award of damages. The RTC and the CA granted P50,000.00 as civil indemnity and P50,000.00 as moral and exemplary damages.

We are in accord with the grant of P50,000.00 as civil indemnity. In murder, the grant of civil indemnity which has been fixed by jurisprudence at P50,000.00, requires no proof other than the fact of death as a result of the crime and proof of the accused's responsibility therefor.[23]

However, the RTC and the CA erred in awarding moral and exemplary damages in one lump sum since these are distinct from each other and, hence, should be determined separately. Moral damages are awarded where the claimant experienced physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury as a result of the felonious act.[24] The award of exemplary damages, on the other hand, is warranted when the commission of the offense is attended by an aggravating circumstance, whether ordinary or qualifying.[25]

Accordingly, the heirs of Roque Cupido are entitled to moral damages in the amount of P50,000.00. Likewise, the presence of the qualifying circumstance of treachery in the killing of the deceased justifies the award of P25,000.00 as exemplary damages.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR-HC-No. 00198 is AFFIRMED with MODIFICATION. Appellant Emilio Manchu is found GUILTY beyond reasonable doubt of murder as defined in Article 284 of the Revised Penal Code. There being no aggravating or mitigating circumstance in the commission of the crime, he is hereby sentenced to suffer the penalty of reclusion perpetua. The appellant is ordered to pay the heirs of Roque Cupido the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Priscilla Baltazar-Padilla, with Associate Justices Pampio A. Abarintos and Stephen C. Cruz, concurring; rollo, pp. 4-22.

[2] CA rollo, pp. 16-27.

- [3] Id. at 7.
- [4] Id. at 97-98.
- [5] TSN, April 21, 1999, pp. 5-8.
- [6] CA rollo,. p. 27.
- [7] Id. at. 59.
- [8] Id. at 59-76.
- [9] Id. at 66.
- [10] Id. at 126.
- [11] Id. at 149.
- [12] *Amora v. People*, G.R. No. 154466, January 28, 2008, 542 SCRA 485, 490.
- [13] CA rollo, pp. 24-25.
- [14] G.R. No. 138033, February 22, 2006, 483 SCRA 10, 24-25.
- [15] CA rollo, p. 146.
- [16] *People v. Perez*, 357 Phil. 17, 31 (1998).
- [17] *People of the Philippines v. Ambrosio Goleas y Limuel, et al.*, G.R. No. 181467, August 6, 2008.
- [18] *Lascano v. People*, G.R. No. 166241, September 7, 2007, 532 SCRA 515, 523-524
- [19] *People v. Mapalo*, G.R. No. 172608, February 6, 2007, 514 SCRA 689, 708-709.
- [20] *People v. Delim*, G.R. No. 175942, September 13, 2007, 533 SCRA 366, 379.
- [21] *People v. De la Cruz*, 408 Phil. 838, 854 (2001).
- [22] *People v. Togahan*, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 574.
- [23] *People v. Goleas*, supra note 17.
- [24] *People v. Astudillo*, 449 Phil. 778, 797 (2003).
- [25] *People of the Philippines v. Esperidion Balais*, G.R. No. 173242, September 17, 2008.

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