

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REX NIMUAN Y CACHO, APPELLANT.

G.R. No. 182458. March 21, 2011

Ponente: BRION, J.

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BRION, J.:

We decide the appeal filed by appellant Rex Nimuan y Cacho from the August 16, 2007 decision of the Court of Appeals (CA) in CA-G.R. CR-H.C.No. 00844.[1]

THE FACTUAL ANTECEDENTS

On August 23, 2004, the appellant was accused[2] of murder [3] in the Regional Trial Court (RTC), Branch 31, Agoon, La Union.[4] The appellant pleaded not guilty on arraignment.[5] In the trial that followed, an eyewitness - Alfredo Ruiz, the brother of the victim (Jun Ruiz) and the appellant's first cousin - testified on the details of the crime.

In the afternoon of July 22, 2004, while Alfredo was talking with 'friends, he saw the victim, the appellant and a certain Boy Nieva drinking in a neighborhood store in Barangay San Eugenio, Aringay, La Union.[6] Later that afternoon, as Alfredo was walking home along a path inside a mango plantation in the barangay, he spotted the appellant and the victim about 30 meters ahead of him, walking in the same trail leading to their respective houses.[7] Unaware of his presence, the appellant - who was walking a meter behind the victim - suddenly hacked the latter with a bolo.[8] Alfredo ran away to seek help when he saw the victim fall to the ground after the attack.[9]

The postmortem report revealed that the victim died from massive loss of blood due to multiple hack wounds on his right forearm, face and head.[10]

The appellant, interposing alibi, claimed that between 3:00 and 5:00 p.m. of July 22, 2004, he was watching television at the house of his uncle, Manuel Dulay, at San Benito Sur when a certain Barangay Captain Carino, along with a barangay kagawad, arrived and informed him that he was a suspect in the death of the victim. The appellant and his mother went with the barangay officials to the police station of Aringay, La Union, where he was detained.[11]

THE RTC RULING

In its December 29, 2004 Decision, the RTC found the appellant guilty of murder. It gave credence to Alfredo's positive identification of the appellant as the perpetrator of the killing, as supported by the postmortem examination of the victim. The RTC appreciated the qualifying circumstance of treachery because the appellant hacked the victim by surprise, leaving the latter no opportunity to defend himself. However, it appreciated in the appellant's favor the mitigating circumstance of voluntary surrender. Applying the indeterminate sentence law, the RTC sentenced the appellant to suffer the penalty of 20 years of reclusion temporal maximum to 40 years of

reclusion perpetua imprisonment, and to pay the heirs of the victim the lump sum of P100,000 as civil indemnity and damages.[12]

THE CA RULING

On intermediate appellate review, the CA affirmed the RTC's judgment, giving full respect to the RTC's assessment of the testimony and the credibility of the eyewitnesses. It rejected the appellant's alibi because the distance between San Benito Sur and the mango plantation where the victim was hacked, was merely 2 kilometers; this distance was not too far away to preclude the possibility of the appellant's presence at the locus criminis. The appellate court appreciated treachery as a qualifying circumstance because the victim was unarmed and defenseless when the appellant, without warning, attacked him from behind with a bolo. The CA also noted the number, location and severity of the hack wounds inflicted on the victim, one of which even cut through his brain and almost severed his head.

The appellate court found that the RTC erred in appreciating the mitigating circumstance of voluntary surrender because the appellant went with the barangay officials not to admit the alleged crime or to voluntarily surrender to the authorities, but only for verification purposes. Thus, the CA sentenced the appellant to reclusion perpetua. It clarified that the lump sum of P100,000 represented P50,000 as civil indemnity and P50,000 as moral damages. It also awarded P25,000 as temperate damages, in lieu of actual damages, and P25,000 as exemplary damages due to the attendance of the qualifying circumstance of treachery.[13]

We now rule on the final review of the case.

OUR RULING

We affirm the appellant's conviction.

We find no reason to disturb the findings of the RTC, as affirmed by the CA. The records are replete with evidence establishing the appellant's guilt beyond reasonable doubt. Alfredo's eyewitness account was corroborated by the postmortem report on the location and severity of the wounds sustained by the victim. Both the RTC and the CA correctly appreciated the qualifying circumstance of treachery because the attack was deliberate, sudden and unexpected, affording the hapless, unarmed and unsuspecting victim no opportunity to resist or to defend himself.[14] The appellant was correctly sentenced to suffer the penalty of reclusion perpetua

since the mitigating circumstance of voluntary surrender cannot be appreciated in his favor; the records indicate that the appellant did not intend to assume responsibility for the death of the victim when he and his mother went with the barangay officials to the police station.[15]

While we affirm the CA's factual findings and the imprisonment imposed, we find it necessary to increase to P30,000 the amount of exemplary damages, to conform with prevailing jurisprudence.[16]

WHEREFORE, the August 16, 2007 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00844 is hereby **AFFIRMED** with **MODIFICATION**. Appellant Rex Nimuan y Cacho is found guilty of murder as defined and penalized under Article 248 of the Revised Penal Code, and is sentenced to suffer the penalty of reclusion perpetua. He is further ordered to pay the heirs of Jun Ruiz P50,000 as civil indemnity ex delicto, P50,000 as moral damages, P25,000 as temperate damages, and P30,000 as exemplary damages.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno., JJ., concur.

[1] Decision penned by Associate Justice Rebecca de Guia-Salvador, and concurred in by Associate Justices Magdangal M. de Leon and Ricardo R. Rosario of the Twelfth Division of the Court of Appeals. Rollo, pp. 2-18.

[2] The accusatory portion of the Information reads:

That on or about the 22[nd] day of July 2004, in the Municipality of Aringay, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and hack one JUN RUIZ from behind with the use of a bolo several times hitting the victim on the different fatal parts of his body and head which caused his instantaneous death, to the damage and prejudice of his family and heirs.

CONTRARY TO LAW. (CA rollo, p. 5.)

[3] See REVISED PENAL CODE, Article 248.

[4] Docketed as Criminal Case No. A-5079.

[5] Original records, p. 38.

[6] TSN, November 10, 2004. pp. 7-9.

[7] Id. at 4-5 and 8-9,

[8] Id. at 11.

[9] Id at 5 and 11.

[10] TSN, November 18, 2004, pp. 5-7; and original records, p. 61.

[11] TSN, December 14, 2004, pp. 8-13.

[12] Original records, pp. 101-130.

[13] Supra note 1.

[14] People v. Lacaden, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 804; and Gandol v. People, G.R. Nos. 178233 & 180510, December 4, 2008, 573 SCRA 108, 124.

[15] TSN, December 14, 2004, pp. 9-13. See Dela Cruz v. Court of Appeals, G.R. No. 139150, July 20, 2001. 361 SCRA 636, 650.

[16] People v- Dela Cruz, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 752; and People v. Gutierrez, G.R. No. 188602, February 4, 2010, 611 SCRA 633, 647.

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