

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL BIGLETE Y CAMACHO, APPELLANT.

G.R. No. 182920. June 18, 2012

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Direct evidence is not the only means by which the guilt of an accused may be established. Circumstantial evidence may similarly be resorted to. In this case, we find the totality of the circumstantial evidence as presented by the prosecution sufficient to prove beyond reasonable doubt the guilt of the appellant.

On appeal is the December 17, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02458 which affirmed with modification the July 11, 2006 Judgment[2] of the Regional Trial Court (RTC) of San Pablo City, Branch 32 finding appellant Michael Biglete y Camacho guilty beyond reasonable doubt of the crime of murder.

Factual Antecedents

On November 16, 2001, an Information[3] was filed charging appellant with the crime of murder committed as follows:

That on or about August 27, 2001, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shoot one ARNEL ALCOS with an unlicensed firearm, with which accused was then conveniently provided, thereby inflicting mortal wounds upon the person of said Arnel Alcos which caused his immediate death.

That the aggravating circumstance of use of motor vehicle attended the commission of the offense.

CONTRARY TO LAW.

A warrant of arrest was thereafter issued against appellant[4] but was returned unserved because he could not be located.[5] It was only on April 21, 2004,[6] or after almost three years, that the appellant was apprehended. On May 6, 2004, appellant was arraigned during which he entered a plea of "not guilty." [7] Trial ensued thereafter.

The facts of the case showed that on August 27, 2001 at around 8:00 p.m., Arnel Alcos (Arnel) was driving his passenger jeepney plying the San Pablo City - Sto. Angel route. Seated beside him was his wife, Susan Alcos (Susan). While they were already cruising along Schetelig Avenue in San Pablo City, Susan heard a gunshot. Seconds after, a red motorcycle overtook their jeepney. The driver of the motorcycle was holding a gun. After a short while, Susan noticed her husband slumped on his seat with his head resting on the steering wheel. The passenger jeepney they were riding then turned turtle. Later she discovered that Arnel was hit on his head which caused his death.

At the time of the shooting incident, Victor Andaya[8] (Victor) was in a waiting shed approximately 20 meters

away from where the incident happened. Victor saw a motorcycle trying to overtake the jeepney being driven by Arnel. When the motorcycle was about to overtake the jeepney, its driver suddenly fired a single shot towards the jeepney driver causing the jeepney to turn turtle. Victor later learned that the jeepney driver died of a gunshot wound.

Some 500 meters away from Schetelig Avenue, Julius Panganiban (Julius) was at his house preparing dinner when he heard a loud noise. When he went out to investigate, he saw that a motorcycle crashed into his gate. Lying near the motorcycle was a revolver. However, the motorcycle driver was nowhere to be found. Julius reported the matter to the police authorities and at the same time surrendered possession of the motorcycle and revolver.

At about 2:00 p.m. of August 28, 2001 or a day after the shooting incident, appellant went to the police station and reported to SPO2 Joselito Mendoza Calabia (SPO2 Calabia) that on August 27, 2001, he was mauled by three persons while he was cruising along Balagtas Blvd. in San Pablo City. Said three persons also allegedly stole his motorcycle. Appellant further narrated to SPO2 Calabia that after he was mauled, he climbed the high concrete fence of a nearby building then ran towards Tirones Compound located at Barangay III-C. SPO2 Calabia and appellant went to the place where the alleged mauling incident happened. However, nobody could tell if such incident indeed transpired. As it was already late in the afternoon, SPO2 Calabia requested appellant to return the following day to subscribe his statement. When appellant failed to appear as scheduled, SPO2 Calabia went to the address as indicated by appellant in his statement. However, according to the people he interviewed, there is no Michael Biglete y Camacho who resides thereat.

Meanwhile, in the course of his investigation on the shooting incident at Schetelig Avenue, SPO2 Calabia learned from the Barangay Captain of San Jose, San Pablo City, that in the evening of August 27, 2001, appellant was brought to the Barangay Captain's residence and there admitted that he was the driver and owner of the subject motorcycle.

Susan later identified the motorcycle as the same motor vehicle used by the assailant while shooting her husband.

Appellant admitted that he owned the subject motorcycle. However, he claimed that on August 27, 2001 at around 7:00 p.m., while he was traversing Balagtas Blvd. somebody hit him at the back with a piece of wood. When he fell down from the motorcycle, somebody got hold of the same. Appellant then ran towards a vacant lot. Thereafter, he sought his cousin Rodelo Biglete, Jr. and together they went to the house of their uncle who is a police officer. Not finding him there, they proceeded to the police station and reported the incident. The following day, appellant returned to the police station and was investigated by SPO2 Calabia.

Ruling of the Regional Trial Court

On July 11, 2006, the RTC rendered its Judgment finding appellant guilty as charged. The dispositive portion of the Judgment reads:

WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, this Court finds that the prosecution has established and proven the guilt of accused MICHAEL BIGLETE Y CAMACHO beyond reasonable doubt of the crime of MURDER and with the presence of use of motor vehicle as aggravating circumstance in the commission of the deed, lie is hereby sentenced to suffer the penalty of imprisonment of RECLUSION PERPETUA; to indemnify the heirs of the deceased the sum of P50,000; the sum of P1 00,000.00 as moral damages; and the costs of the suit.

SO ORDERED.[9]

In arriving at its verdict, the trial court held that direct evidence is not the only matrix, by which the guilt of the

accused may be determined. Resort to circumstantial evidence may be made in the absence of direct evidence. In this case, the trial court ruled that the totality of circumstantial evidence as presented by the prosecution is sufficient to prove beyond reasonable doubt the guilt of the appellant for the crime of murder. It appreciated the qualifying circumstances of evident premeditation and treachery as having attended the commission of the crime. It likewise appreciated the aggravating circumstance of use of a motor vehicle.

The trial court did not lend credence to the version of the appellant that his motorcycle was stolen. Aside from the fact that nobody corroborated appellant's testimony, no ill-motive was likewise imputed on the prosecution witnesses as to testify falsely against him.

Ruling of the Court of Appeals

The appellate court affirmed the factual findings of the trial court. It likewise found the circumstantial evidence presented by the prosecution as sufficient basis for appellant's conviction. However, according to the appellate court, only the qualifying circumstance of treachery attended the commission of the crime and that the same was facilitated by the use of a motor vehicle. It did not appreciate the qualifying circumstance of evident premeditation because there was no showing as to when and how the felony was planned. As regards the award of damages, the appellate court increased the award of civil indemnity to P75,000.00 and reduced the award of moral damages to P75,000.00. The dispositive portion of the appellate court's Decision reads:

WHEREFORE, the assailed Judgment dated July 11, 2006 is affirmed, subject to the modification that only the qualifying circumstance of treachery is considered, the award of civil indemnity is increased to P75,000.00 and the award of moral damages is reduced to P75,000.00. The Judgment is affirmed in all other respects.

SO ORDERED.[10]

Hence, this appeal.

This Court notified the parties that they may file their supplemental briefs within 30 days from notice. However, both parties manifested that they have opted to adopt the briefs they earlier filed with the CA as their supplemental briefs.

Our Ruling

The appeal lacks merit.

Circumstantial Evidence

"[T]he lack of direct evidence does not ipso facto bar the finding of guilt against the appellant. As long as the prosecution establishes the appellant's participation in the crime through credible and sufficient circumstantial evidence that leads to the inescapable conclusion that the appellant committed the imputed crime, the latter should be convicted.[11]

Section 4, Rule 133 of the Rules of Court instructs us when circumstantial evidence is deemed sufficient for conviction, viz: 1) when there is more than one circumstance; 2) when the facts from which the inferences are derived are proven; and 3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

The trial court relied on the following circumstantial evidence on which to anchor the conviction of the appellant, thus:

- Susan Alcos testified that when her husband, being the driver of a passenger jeep, and she was seated by his side, sustained a wound on his head inflicted by a person riding a motorcycle, she was able to see immediately

after the shooting- Michael Biglete who was then driving that motorcycle, passed by their jeepney and he was holding a gun. She did not see any person holding a gun save this motorcycle driver who passed them by. The motorcycle is a YAMAHA motorcycle colored red and without a plate number. She saw that motorcycle at the Police Station which according to the police officers was involved in an accident on the night of August 27, 2001. It is owned by Michael Biglete, the driver of that vehicle during that fateful night, and this driver was wearing a red T-shirt that night.

- Victor Andaya. on that fateful night of August 27, 2001 while waiting for a passenger jeepney [in] a waiting shed at Villongco Subd., saw a motorcycle following a jeepney. The driver of that motorcycle was wearing a red T-shirt. He saw the driver of the motorcycle fire at the driver of the jeepney as it overtook the jeepney. The jeepney turned turtle. The shooting incident happened at Schetelig Avenue at EFARCA Village twenty (20) meters away from where he was waiting for a passenger jeepney.

- Julius Panganiban testified that on August 27, 2001 at about 8:00 o'clock in the evening, he heard a bump on the gale of his house. He went down and saw a red motorcycle slump on its side. He did not see the driver. He also saw the firearm appearing to be a .357 revolver. He presented said motorcycle and firearm to the police officers. The motorcycle was released to Victor Sumaya, a representative of R-Cycle Motorcycle because it was purchased by a certain Michael Biglete of Lopez Jacna Street. San Pablo and still under installment. It is the very motorcycle he found near his gate.

- Police Officer Joselito Calabia testified that it was on August 28, 2001 at about 2:00 o'clock in the afternoon when accused Michael Biglete reported to him that his motorcycle was catnapped by three (3) persons who also mauled him. Michael allegedly climbed a high concrete fence with barb wire near the SSS building and ran to Tirones Compound going to the City Plaza where the 711 store is. He took Michael's statement and even Ms address, however when he went to the place indicated, the people there told him that there was no Michael Biglete residing there. He saw the motorcycle at the Police Headquarters which as reported was brought by the Brgy. Officials of Brgy. San Jose which according to the widow of the victim, x x x is the motorcycle used by the assailant in shooting her husband. The Barangay Chairman told him that the driver of that motorcycle is that person who introduced himself as Michael Biglete.[12]

The CA likewise found the foregoing circumstantial evidence sufficient to prove the guilt of the appellant beyond reasonable doubt. The appellate court stressed that right after the shooting, Susan Alcos, then seated beside Arnel Alcos inside the jeepney, was able to see accused-appellant holding a gun while riding a motorcycle. Hence, although she did not witness the sudden shooting of Arnel Alcos, it was only accused-appellant whom she saw right after the shooting, riding on the motorcycle and holding a gun.[13] It also noted that Susan's testimony was corroborated by Victor, a traffic enforcer, who was situated approximately 20 meters away from the crime scene.[14] The CA thus readied the same conclusion as the RTC that the combination of the following events leads to no other conclusion than that appellant was the author of the crime, thus: "(1) Arnel Alcos was shot while he was driving a jeepney; (2) [r]ight after the shooting, accused-appellant was seen by Susan Alcos and Victor Andaya as the only one holding a gun on board the motorcycle which overtook the jeepney driven by Arnel Alcos; and, (3) [a]ccused-appellant was the owner of the motorcycle." [15]

We agree with the findings of the RTC and the CA that indeed, the foregoing events when woven together lead to no other conclusion than that it was appellant, to the exclusion of any other person, who is the perpetrator of the crime. The combination of the circumstances leaves no doubt in our mind that it was the appellant who killed Arnel.

At this juncture, we reiterate the well-established doctrine that "factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions based on these factual findings are to be given the highest respect. As a rule, the Court will not weigh anew the evidence already

passed on by the trial court and affirmed by the CA. Though the rule is subject to exceptions, no such exceptional grounds obtain in this case." [16] In fine, we see no cogent reason to disturb the findings of the trial court as affirmed by the CA.

Treachery

We agree with the trial court as affirmed by the appellate court that treachery was employed by the appellant. The attack was so swift and unexpected, affording the hapless, unarmed and unsuspecting victim no opportunity to resist or defend himself." [17] Indeed, the victim had no inkling of any harm that would befall him that fateful night of August 27, 2001. He was merely plying his regular route. He was unarmed. The attack was swift and unexpected. The victim's aims were on the steering wheel; his focus and attention on the traffic before him. All these showed that the victim was not forewarned of any danger; he also had no opportunity to offer any resistance or to defend himself from any attack.

Use of Motor Vehicle

We agree with the trial court and the CA that the aggravating circumstance of use of a motor vehicle likewise attended the commission of the crime. Appellant was on board his motorcycle when he tried to overtake the jeepney being driven by the victim. When he was already near the left side of the victim, appellant shot him at close range. Immediately thereafter, he fled from the crime scene using his motorcycle. There is therefore no doubt that the motorcycle was used to facilitate the commission of the crime as well as his escape after the deed has been accomplished. In *People v. Herbias*, [18] we held that -

The use of motor vehicle may likewise be considered as an aggravating circumstance that attended the commission of the crime. The records show that assailants used a motorcycle in trailing and overtaking the jeepney driven by Saladio after which appellant's back rider mercilessly riddled with his bullets the body of Jeremias. There is no doubt that the motorcycle was used as a means to commit crime and to facilitate their escape after they accomplished their mission.

Use of unlicensed firearms

Both the trial court and the CA properly disregarded the circumstance of use of unlicensed firearms. Records show that no evidence was presented to show that the same was unlicensed. Consequently, such circumstance cannot be appreciated. [19]

Denial and Alibi

Appellant's defense constitutes merely of his denial and alibi. Both were correctly disregarded by the trial court and the CA. Aside from being inherently weak, the same were unsubstantiated and thus self-serving. Placed side by side with the evidence presented by the prosecution, appellant's denial and alibi must fail. Appellant would like this Court to believe that after the alleged mauling incident, he sought his cousin, Rodelo Biglete, and together they went to their uncle who is a police officer. However, he did not present his cousin or his uncle to corroborate his testimony. Moreover, appellant miserably failed to show that it was physically impossible for him to be at the crime scene at the time it was committed. Appellant admitted that at the time of the shooting incident, he was at Balagtas Blvd. which is located perpendicular to Schetelig Avenue. Besides, appellant also failed to impute ill-motive on the part of the prosecution witnesses to testify against him.

Flight

We find appellant's reaction not in accord with or within the bounds of expected human behavior. On August 28, 2001, he initially reported the alleged mauling incident to SPO2 Calabia. However, he did not return to have his

statement subscribed despite having been earlier directed to. He also tried to mislead the investigating officer by giving, him his wrong address. Hence, SPO2 Calabia went to the address as indicated in his unsworn statement, SPO2 Calabia was informed that appellant was not a resident thereat or even known in the said address. Also, despite having known that his motorcycle was impounded at the police station, appellant did not take steps to recover possession thereof, if indeed his claim that the same was stolen from him was true. On the contrary, upon having discovered that the motorcycle was tagged as having been used in the shooting incident, appellant immediately took flight. In fact, he was apprehended only after three years from the time of the commission of the crime. To us, all these indicate a guilty conscience and an attempt to evade the arms of the law.

The Penalty

In view of the attending qualifying circumstance of treachery, and the aggravating circumstance of use of motor vehicle, the crime committed was murder, the penalty for which is reclusion perpetua. Moreover, appellant is not eligible for parole^[20] pursuant to Section 3 of Republic Act No. 9346 which provides:

Section 3. Persons convicted of offenses punishable 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. 4103 otherwise known as the Indeterminate Sentence Law, as amended.

Award of Damages

We affirm the award of civil indemnity in the amount of P75,000.00.^[21] As regards the award of moral damages, we reduce the amount to P50,000.00 in line with prevailing jurisprudence.^[22] "These awards are mandatory without need of allegation and proof other than the death of the victim, owing to the fact of the commission of murder or homicide."^[23]

We note that both the RTC and the CA did not award actual damages. Perusal of the records shows that Susan incurred expenses for the hospitalization, burial and wake of the victim. She however failed to present the receipts for said expenses. However, it being established that certain expenses were indeed incurred, temperate damages "in the amount of P25,000.00 should be awarded in lieu of actual damages to the heirs of the victim pursuant to Article 2224 of the Civil Code which provides that temperate damages 'may be recovered when the court finds that pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.'"^[24]

The heirs of the victim are likewise entitled to an award of exemplary damages in the amount of P30,000.00 "in view of the proven qualifying circumstance of treachery"^[25] as well as the aggravating circumstance of use of motor vehicle.

WHEREFORE, premises considered, the December 17, 2007 Decision of the Court of Appeals in CA-G.R. CR-H.C No. 02458 which found appellant Michael Biglete y Camacho guilty beyond reasonable doubt of murder is **AFFIRMED** with further **MODIFICATIONS** as follows:

1. Appellant is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole;
2. The award of moral damages is reduced to P50,000.00;
3. Temperate damages of P25,000.00 in lieu of actual damages is awarded;
4. Exemplary damages of P30,000.00 is awarded; and
5. Appellant is further ordered to pay the heirs of the victim interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this judgment.

SO ORDERED.

Leonardo-De Castro,[*] (Acting Chairperson), Abad,**] Villarama, Jr., and Perlas-Bernabe,[***] JJ., concur.

[*] Per Special Order No. 1226 dated May 30, 2012.

[**] Per Special Order No. 1230 dated June 6, 2012.

[***] Per Special Order No. 1227 dated May 30, 2012.

[1] CA rollo, pp. 101-116; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Edgardo P. Cruz and Nonnandie B. Pizarro.

[2] Records, pp. 308-325; penned by Judge Zorayda Herradura-Salcedo.

[3] Id. at 1.

[4] Id. at 20.

[5] Id. at 28.

[6] Id. at 60.

[7] Id. at 66.

[8] Sometimes referred to as Victor Endaya in some parts of the records.

[9] Records, pp. 324-325.

[10] CA rollo. p. 115.

[11] People v. Villamor, G.R.No. 187497, October 12, 2011.

[12] Records, pp. 320-321.

[13] CA rollo, p. 106.

[14] Id. at 109.

[15] Id. at III.

[16] People v. Mcmianmcas. G.R. No. 179497, January 25, 2012.

[17] Id.

[18] 333 Phil. 422, 432-433 (1996).

[19] People v. Oca, 458 Phil. 815, 850 (2003).

[20] People v. Mamaruncas, supra note 16.

[21] Id.

[22] Id.

[23] Id.

[24] Id.

[25] Id.

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