

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY GIDOC @ BAYENG, ACCUSED- APPELLANT.

G.R. No. 185162. April 24, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is an appeal from the Decision[1] of the Court of Appeals dated 27 May 2008 in CA-G.R. CR-HC No. 02414. The appellate court affirmed with modification the Joint Decision[2] dated 23 May 2006 of the Regional Trial Court (RTC) of Malabon City, Branch 170, finding accused-appellant Rolly Gidoc alias Bayeng guilty of two counts of Murder in Criminal Cases No. 24988-MN and No. 24989-MN.

The factual antecedents are as follows:

On 29 June 2001, accused-appellant Rolly Gidoc alias Bayeng, Ronnie Ocenar alias Erap (Ocenar) and one John Doe were charged in the RTC with two counts of Murder under Article 248 of the Revised Penal Code for the deaths of brothers Cesar Perez y Espinosa (Cesar) and Arnel Perez y Espinosa (Arnel) in two Informations which read:

Criminal Case No. 24988-MN

That on or about the 8[th] day of April 2001, in Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating and mutually helping with one another, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one CESAR PEREZ Y ESPINOSA, hitting the victim on his body, thereby inflicting upon the victim serious wound which caused his immediate death.[3]

Criminal Case No. 24989-MN

That on or about the 8[th] day of April 2001, in Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, conspiring, confederating and mutually helping with one another, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one ARNEL PEREZ Y ESPINOSA, hitting the victim on his body, thereby inflicting upon the victim serious wound which caused his immediate death.[4]

When arraigned on 23 October 2003, accused-appellant entered pleas of not guilty to the crimes charged. His co-accused Ocenar remained at large.

Upon joint motion of the prosecution and the defense, the cases were consolidated and trial ensued thereafter.

The prosecution presented witness Bernard Paladin (Paladin) who positively identified accused-appellant as the person who stabbed the brothers Arnel and Cesar. He said that Ocenar acted as a look-out. He testified that at around ten o'clock in the evening of 8 April 2001, his group which included the victims Cesar and Arnel, as well

as accused-appellant and Ocenar, were drinking and singing in a videoke joint at the Bicol Area in Tanza, Navotas. He disclosed that accused-appellant and Ocenar got involved in a fight with another group nearby, while he and the victims did not join in the fray. After the fight, accused-appellant and Ocenar left but returned after about five minutes armed with bladed weapons. Accused-appellant, armed with a long knife, approached the group and suddenly stabbed victim Arnel on the right breast. About five seconds thereafter, accused-appellant also stabbed victim Cesar. The victims were sitting side by side and singing when the incident happened. While the stabbing was taking place, Ocenar stood guard with a bladed weapon on hand and was watching if somebody would help. After the incident, accused-appellant and Ocenar ran away while the victims managed to run home. As a result of the stabbing, the victims died while undergoing treatment in the hospital.

Dr. Filemon Porciuncula was called to interpret the findings of Medico-Legal Officer Michael Maunahan who conducted the autopsy on the cadavers identified as victims Arnel Perez[5] and Cesar Perez.[6] Based on the Medico Legal Report No. M-212-01,[7] victim Arnel sustained one incised and one stab wound fatal enough to cause his death, it piercing the underlying soft tissue including the right dome of the diaphragm, right lobe of the liver, lower lobe of the right lung and fracturing the 7[th] thoracic rib. As contained in the Medico Legal Report No. M-211-01,[8] victim Cesar sustained one abrasion and one stab wound thru and thru, piercing the right dome of the diaphragm, right lobe of the liver, right adrenal, right renal vein and right kidney. Both victims died of hemorrhagic shock secondary to stab wound on the trunk. The respective death certificates of victims Arnel and Cesar were marked, presented and offered in evidence.[9]

Accused-appellant denied the accusations against him claiming that it was not him but his cousin named Rolly Gidoc who killed the victims because his real name is Rolando Gidoc alias Bayeng. He insisted that at the time of the incident, he was on his way to Bicol Area, Tanza, Navotas, after coming from his work in Imus, Cavite. When he passed by the group of Cesar which was having a drinking spree, the latter's brother, whose name he did not know, called him. He approached the group but Cesar's brother suddenly punched him. The other members of the group joined in mauling him. They only stopped when Paladin arrived and pacified them. He said that when he was being mauled, his cousin Rolly Gidoc was with him. He further claimed that he does not know why Paladin pointed to him as the one who stabbed the victims. He was later informed by somebody that the victims are already dead and that it was his cousin Rolly Gidoc who killed them.

On 23 May 2006, the RTC, in a Joint Decision, found accused-appellant guilty of Murder for both charges. The trial court disposed of the case as follows:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered as follows:

In Criminal Case No. 24988-MN for Murder, the Court finds accused ROLLY GIDOC alias BAYENG GULITY beyond reasonable doubt of the crime charged and is hereby sentences to suffer the penalty of reclusion perpetua, and to pay the heirs of victim Cesar Perez the amount of P50, 000.00 by way of civil indemnity, together with costs of suit.

In Criminal Case No. 24989-MN for Murder, the Court finds accused ROLLY GIDOC alias BAYENG GULITY beyond reasonable doubt of the crime charged and is hereby sentences to suffer the penalty of reclusion perpetua, and to pay the heirs of victim Arnel Perez the amount of P50, 000.00 by way of civil indemnity, together with costs of suit.

It appearing that accused Ronnie Ocenar is still at large, the case against him is archived subject to revival upon his arrest.[10]

Accused-appellant appealed to the Court of Appeals arguing that:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIMES CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE SAME BEYOND REASONABLE DOUBT

II

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.[11]

In its Decision, the Court of Appeals said that the prosecution was able to establish the fact of the commission of the crimes charged through the findings of the medico legal officer and that the prosecution was able to prove the fact that accused-appellant was the perpetrator of the crimes through the testimony of eyewitness Paladin. It held that Paladin's testimony is clear and his positive identification of accused-appellant has greater evidentiary weight than the bare denial of the latter.

The Court of Appeals also appreciated treachery as a qualifying circumstance due to the suddenness and mode of attack adopted by the accused-appellant which placed the victims and the people around them in a situation where there was no way for them to resist the attack or defend themselves. It, however, modified the award of damages. In addition to the award of civil liability given by the trial court, the Court of Appeals awarded the amounts of P50,000.00 and P75,000.00 as moral and exemplary damages, respectively, in each of the two cases. The dispositive portion of the appellate court's decision reads:

WHEREFORE, in view of the foregoing, the appeal is DENIED. The Joint Decision in Criminal case Nos. 24988-MN and 24989-MN is AFFIRMED with MODIFICATION that in addition to the award of civil liability of P 50, 000.00 ex delicto; accused-appellant is likewise ordered to indemnify the heirs of both victims moral damages of P50,000.00 and exemplary damages of P75,000.00 in each of the two (2) cases.[12]

Accused appellant is now before us praying for his exoneration. In our Resolution dated 15 December 2008, we directed the parties to file their supplemental briefs, if they so desire.[13] The parties manifested they will no longer file their supplemental briefs because they had already exhaustively discussed the assigned errors in their appellant's and appellee's briefs.[14]

After reviewing the evidence on hand, we uphold accused-appellant's conviction for the crimes charged.

The prosecution was able to prove the crime beyond reasonable doubt. It was able to establish two things: first, the fact of the commission of the crime charged or the presence of all the elements of the offense; and second, the fact that the accused was the perpetrator of the crime.[15]

The fact that the accused-appellant was the perpetrator of the crimes was proven by the testimony and the positive identification by eyewitness Paladin. We find his testimony to be bereft of inconsistency and is worthy of credence. His testimony, insofar as pertinent, reads:

Q:

Before the stabbing incident of the victims Arnel and Cesar Perez, was there any incident that happened?

A:

Yes Sir, there was.

Q:

What was that incident?

A:

Ronnie Ocenar was first involved in a brawl with another group singing in that videoke joint.

Q:

Do you want to impress to this Honorable Court that Rolly Gidoc was also with your group drinking and singing in that videoke joint?

A:

Yes Sir.

Q:

And what happened when Ronnie Ocenar was involved in a brawl with another group?

A:

He approached Rolly Gidoc and asked for help.

Q:

What kind of brawl was that?

A:

There was a fist fight between the group of Ronnie Ocenar and another group Sir.

x x x x

Q:

When Ocenar sought the help of Rolly Gidoc, what happened next?

A:

Another fist fight ensued Sir.

x x x x

Q:

And what about your group, what did you do when there was a fist fight between the group of Ocenar and the unidentified group?

A:

None Sir, we did not mind them and we continue drinking and singing Sir.

x x x x

Q:

So these victims Cesar and Arnel did not bother to help or join in the fist fight?

A:

Yes Sir.

Q:

Do you know if there was an altercation between these two victims and Rolly Gidoc before the stabbing?

A:

There was none Sir

Q:

After the stabbing by Gidoc of Arnel and Cesar Perez, what happened next?

A:

Rolly Gidoc ran away and the two victims also ran towards their house Sir.

x x x x

Q:

Who among the victims was first stabbed?

A:

Arnel Perez Sir.

Q:

And then followed by?

A:

Cesar Perez Sir

Q:

How many stab wounds was sustained by Arnel Perez?

A:

Only one Sir.

Q:

How about the other victim?

A:

Also one Sir.

x x x x

Q:

Will you please stand up and look around and see if Rolly Gidoc is present in this courtroom?

A:

He is Rolly Gidoc Sir. (At this juncture, the witness stood up and pointed to a man who when asked answered by the name of Rolando Gidoc.)[16]

Based from the foregoing, there is nothing vague about the testimony of Paladin. His statements are clear and certain about the fact that accused-appellant was the one who stabbed Arnel and Cesar.

Even if Paladin's testimony is not corroborated, we find the same sufficient to warrant conviction. In *People v. Badajos*,^[17] this Court held that it is axiomatic that the testimonies of witnesses are weighed not numbered and the testimony of a single witness may suffice for conviction if found trustworthy and reliable. There is no law which requires that the testimony of a single witness needs corroboration except where the law expressly mandates such corroboration.

The medical findings further support the case of the prosecution. The fact of the commission of the offenses charged was established through the testimony of Dr. Filemon Porciuncula who interpreted the findings of Medico-Legal Officer Michael Maunahan. Dr. Porciuncula testified that the victims died of hemorrhagic shock secondary to stab wounds on the trunk per autopsy report made on their cadavers. The injuries suffered by the victims as testified to by Paladin were consistent with the medico-legal report.

In denying the accusation against him, accused-appellant pointed to an alleged cousin named Rolly Gidoc as the perpetrator of the crimes. He said his real name is Rolando Gidoc not Rolly Gidoc. Such claim, unsupported by other credible and competent evidence will not prevail over the positive identification of him by the witness. In *People v. Alvarado*,^[18] we held that greater weight is given to the positive identification of the accused by the prosecution witness than the accused's denial and explanation concerning the commission of the crime. This is so inasmuch as mere denials are self-serving evidence that cannot obtain evidentiary weight greater than the declaration of credible witnesses who testified on affirmative matters.

Furthermore, accused-appellant questioned the findings of facts made by the trial court. In *People v. Dumadag*,^[19] this Court held that well entrenched is the rule that findings of facts of the trial court, its calibration of the testimonial evidence of the parties as well as its conclusion on its findings, are accorded high respect if not conclusive effect. This is because of the unique advantage of the trial court to observe, at close range, the conduct, demeanor and deportment of the witness as they testify. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.^[20] There being no compelling reason to deviate from the findings of both lower courts, we uphold the same.

As to the presence of the qualifying circumstance of treachery, we find the same to be present in these cases.

There is treachery when the offender commits any of the crimes against persons, employing means methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offender might make.^[21] The essence of treachery is a swift and unexpected attack on an unarmed victim without the slightest provocation on the latter's part.^[22]

In these cases, the circumstances showing how the victims were stabbed reveal that they had no opportunity to defend themselves. They were unarmed and unsuspecting as they were just singing and drinking when accused-appellant stabbed them. As properly observed by the trial court, the swift and unexpected attack by the accused rendered them helpless. There was also no provocation on their part to justify the ire of appellant. Treachery thus qualifies the killings to Murder.

We now go to the penalties to be imposed on accused-appellant. He is guilty of two counts of murder qualified by treachery. Under Article 248^[23] of the Revised Penal Code, as amended, the penalty imposed for the crime of murder is reclusion perpetua to death. There being no aggravating or mitigating circumstance, the penalty imposed on appellant is reclusion perpetua for each count, pursuant to Article 63, paragraph 2^[24] of the Revised Penal Code.

When 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.[25]

Civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime.[26] We affirm the award of civil indemnity given by the trial court and the Court of Appeals. Under the prevailing jurisprudence,[27] the award of P50,000.00 as civil indemnity for each count of murder, to be paid to the heirs of the victims, is proper.

As to actual damages, the heirs of the victims of murder are not entitled thereto because said damages were not duly proved with a reasonable degree of certainty.[28]

The award of P25,000.00 as temperate damages in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court.[29] Under Article 2224 of the Civil Code, temperate damages may be recovered, as it cannot be denied that the heirs of the victims suffered pecuniary loss although the exact amount was not proved.[30] Thus, this Court awards P25,000.00 as temperate damages for each count of murder.

Anent moral damages, the same are mandatory in cases of murder and homicide, without need of allegation and proof other than the death of the victim.[31] The award by the Court of Appeals of P50,000.00 as moral damages for each count of murder, is proper.

The Court of Appeals awarded exemplary damages in the amount of P75,000.00 for each count of murder. Such award, following current jurisprudence, must be reduced to P25,000.00 since the qualifying circumstance of treachery was firmly established.[32]

WHEREFORE, premises considered, the Decision of the Court of Appeals dated 27 May 2008 in CA-G.R. CR-HC No. 02414 - finding appellant Rolly Gidoc guilty beyond reasonable doubt of two counts of murder and sentencing him to suffer the penalty of reclusion perpetua for each count - is hereby **AFFIRMED** with modifications. Appellant is ordered to pay the heirs of the victims for each count of murder the following: (1) civil indemnity in the amount of P50,000.00; (2) moral damages in the amount of P50,000.00; (3) temperate damages in the amount of P25,000.00; and (4) exemplary damages in the amount of P25,000.00. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Peralta, JJ., concur.

[1] Penned by Justice Arcangelita M. Romilla-Lontok with Associate Justice Mariano C. Del Castillo and Associate Justice Ricardo R. Rosario, concurring. Rollo, pp. 2-10.

[2] Penned by Judge Benjamin T. Antonio. CA rollo, pp. 11-15.[3] Records, p. 1.

[4] Id. at 7.

[5] Exhibit "C-2."

[6] Exhibit "C-3."

[7] Exhibit "C-4."

[8] Exhibit "C-5."

[9] Exhibits "C-6" and C-7."

[10] CA rollo, p. 51.

[11] Rollo, p. 4.

[12] Id. at 10.

[13] Id. at 17.

[14] Id. at 18- 19; 21- 22.

[15] *People v. Latayada*, 467 Phil. 682, 690 (2004).

[16] TSN, 12 February 2002 pp. 4-7.

[17] 464 Phil. 762, 770 (2004).

[18] 341 Phil. 725, 734 (1997).

[19] G.R. No. 147196, 4 June 2004, 431 SCRA 65, 70.

[20] *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 547.

[21] Revised Penal Code, Art. 14(16).

[22] *People v. Dimailig*, 388 Phil. 129, 142 (2000).

[23] ART. 248. Murder.- Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death, if committed with any of the following attendant circumstances:

1. With treachery, x x x.

[24] ART. 63. Rules for the application of indivisible penalties. - 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.

[25] *People v. Beltran, Jr.*, G.R. No. 168051, 27 September 2006, 503 SCRA 715, 740.

[26] *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 742.

[27] *People v. Pascual*, G.R. No. 173309, 23 January 2007, 512 SCRA 385, 400; *People v. Cabinan*, G.R. No. 176158, 27 March 2007, 519 SCRA 133, 141.

[28] *People v. Tubongbanua*, *supra* note 26 at 742.

[29] *People v. Dacillo*, G.R. No. 149368, 14 April 2004, 427 SCRA 528, 538.

[30] *People v. Surongon*, G.R. No. 173478, 12 July 2007, 527 SCRA 577, 588.

[31] *People v. Bajar*, 460 Phil. 683, 700 (2003).

[32] *People v. Beltran, Jr.*, *supra* note 25 at 741.

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