

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO BASADA Y DEL MONTE, RICARDO BASADA Y QUIMADA, CRISANTO BASADA Y QUIMADA, AND REYNALDO BASADA Y QUIMADA, APPELLANTS.

G.R. No. 185840. June 29, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the failed attempt of prosecution witnesses to implicate the other members of the assailant's family in the crime of homicide.

The Facts and the Case

The Assistant Provincial Prosecutor of Marikina charged the accused Pedro, Ricardo alias Carding, Reynaldo alias Rene, Crisanto alias Totoy, and Buyo, all surnamed Basada, and Elmer Apelado before the Regional Trial Court (RTC) of San Mateo, Rizal, in Criminal Case 2929 with the crime of murder.

Upon arraignment, all of the accused pleaded not guilty to the charge, except Reynaldo and Buyo, who were then both at large. The prosecution presented Eutiquio Alea who testified that his brother, Jill, lived next to his house in Vista Rio Village in San Jose, Montalban, Rizal. On May 19, 1996, at about 2 p.m., Eutiquio was at his house when he heard Reynaldo invite Jill to a drinking session at Eddie Basada's house, which was about 300 meters away. At first, Jill did not agree but he eventually gave in to Reynaldo's request. So at about 3 p.m., Jill and Reynaldo left for Eddie's place.

Noel Aneri testified that those present at the drinking session were, aside from himself, his brother Celso, Jill, Reynaldo, Elmer, and Jill's brothers-in-law. At about 5 p.m., an altercation broke out between Jill and Reynaldo because the latter thought that Jill's brothers-in-law might talk too much. Reynaldo boxed Jill on the body, prompting the latter to run outside. Reynaldo went after Jill and hurled a stone at him to slow him down. When Reynaldo reached Jill, he stabbed him at the back with a balisong. While Reynaldo and Jill grappled for the knife, Pedro, Crisanto, Buyo, Ricardo, and Elmer came to Reynaldo's aid.

Noel, who allegedly watched the fight from about a distance of three meters, saw Ricardo stab Jill at the back. Elmer, who was behind Jill, stabbed the latter, too. Pedro held Jill's shorts while boxing him. Buyo and Crisanto, who were also throwing punches, held Jill's right and left arms, respectively.

Eutiquio said that he saw all these happen because he went out of his house when a child screamed, "Pinagtulung-tulungan ng Basada." He immediately turned around, however, and returned to his house out of fear of what he saw. Subsequently, the accused left Jill and ran towards a forested area. Noel brought Jill to a hospital where the latter died.

The autopsy report on Jill's cadaver showed that he sustained a contusion on the head, multiple abrasions, and six stab wounds, all on the left part of his body, three of which were fatal. It seemed probable to the medico-legal

examiner that only one weapon was used in stabbing Jill.

On April 16, 1999 the RTC rendered a decision acquitting Elmer but finding Pedro, Ricardo, and Crisanto guilty beyond reasonable doubt of the crime charged. It sentenced them to suffer the capital punishment of death.

After the promulgation of the decision, Reynaldo was apprehended and tried. On June 15, 2004 the RTC rendered a decision, finding him likewise guilty beyond reasonable doubt of murder, sentencing him to also suffer the penalty of death.

The Court of Appeals (CA) rendered judgment^[1] in CA-G.R. CR-HC 01343 on February 21, 2008, affirming the decision of the RTC but reducing the death penalty imposed on Reynaldo to reclusion perpetua. The CA found Pedro, Ricardo, and Crisanto guilty beyond reasonable doubt as mere accomplices and sentenced each of them to suffer the indeterminate penalty of 10 years and 1 day of prision mayor, as minimum, to 18 years of reclusion temporal, as maximum.

The CA ordered all of the accused to solidarily pay the heirs of Jill Alea P50,000.00 as civil indemnity; P50,000.00 as moral damages; P25,000.00 as temperate damages; and P25,000.00 as exemplary damages. Pedro, Ricardo, Crisanto, and Reynaldo appealed to this Court from that decision.

The Issue Presented

The only issue presented in this case is whether or not the CA erred in holding that Reynaldo murdered Jill by stabbing him with the aid, as accomplices, of Pedro, Ricardo, and Crisanto.

The Rulings of the Court

As a general rule, a trial court's assessment of the credibility of a witness is entitled to great weight.^[2] But this is true only if the trial court had not overlooked some fact or circumstance of great weight and persuasiveness, which if taken into account, could affect the outcome of the case.^[3] Here, there are several telltale signs that the prosecution witnesses did not tell the truth.

Eutiquio claims that he came out of his house on hearing a child scream, "Pinagtulung-tulungan ng Basada" and that he then went to the place where the reported commotion was taking place. But the spot where his brother was attacked, just outside the house where they were drinking, was about 300 meters from Eutiquio's house. Given that the child saw what was taking place, he had to travel some 300 meters to get near Eutiquio's house and shout the alarm. For his part, Eutiquio had to get out of his house and travel the same 300 meters to get to the place that the child described. Under the circumstances, what the child saw--Eutiquio's brother being ganged up on by the Basadas--would have long come to pass.

Besides, it is quite unbelievable that, as Eutiquio saw his brother being attacked, he would turn back and go home, mindless of what his brother was going through. Although Eutiquio may have been afraid, it was unnatural for him not to do anything to help his brother. He could have shouted or ran for help. And, if he really saw the stabbing, he would have at least stayed to take his brother to the hospital.

What is more, Eutiquio and Noel testified that they saw all six accused swarm over Jill, either stabbing or throwing punches at him. If Eutiquio and Noel were to be believed, Reynaldo was the first to stab his brother, followed by Ricardo who pulled the knife from Jill's back and stabbed him again with it. But it is most unlikely for Reynaldo who was the main assailant to stand aside so Ricardo could take over the attack, pull out the knife, and use it again against Jill. Even more incredible is Noel's claim that Ricardo also stood aside to let Elmer himself get the knife and stab Jill a third time. Indeed, the trial court acquitted Elmer since the autopsy report did

not show the stab wound he allegedly inflicted on Jill's body.

Moreover, it was apparent that Eutiquio and Noel had improper motives for trying to implicate the other Basadas. Eutiquio wanted Reynaldo's entire family to suffer for the killing of his brother Jill. Noel, on the other hand, admittedly entertained a grudge against Crisanto prior to the stabbing incident. What should be given credence are the testimonies of those witnesses who had no motive or reason to lie.

Domingo Catalo testified that he was part of the drinking party. He did not see the other Basadas there and it was only Reynaldo who fought with Jill on that occasion. Concepcion Cristobal, another witness, testified that Ricardo was her stay-in worker on the day of the stabbing incident. Finally, Tirso Ramiscal corroborated the alibis of Pedro and Crisanto that they were at that time at the San Mateo cockpit. Although ordinarily the defense of alibi cannot prevail in the face of positive identification,[4] that rule cannot apply in this case because of the utterly dubious stories of those who identified the supposed assailants.

The prosecution has the burden of proving the guilt of the accused beyond reasonable doubt.[5] The overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[6] Here, the prosecution amply proved that Reynaldo stabbed Jill but utterly failed to show the involvement of the others in the offense.

Despite proof of Reynaldo's guilt, however, the evidence is lacking as to the existence of the qualifying circumstance of treachery. The CA was correct in holding that treachery was not present in this case. For treachery to qualify Jill's killing to murder, the prosecution had to prove (1) that Reynaldo used means to ensure his safety from Jill's defensive or retaliatory acts; and (2) that Reynaldo deliberately adopted such means.[7]

Here, the prosecution had been unable to prove that Reynaldo used means of attack that prevented Jill from defending himself. One witness, Catalo, testified that it was actually Jill who struck first, precluding any notion of treachery on Reynaldo's part.[8] Under the circumstances, the Court finds Reynaldo guilty merely of the lesser offense of homicide and acquits the rest of the accused.

For his crime, Reynaldo should suffer the penalty of reclusion temporal.[9] As regards his civil liability, he should pay his victim's heirs P50,000.00 as death indemnity,[10] another P50,000.00 as moral damages because of the physical suffering and mental anguish that the crime brought about,[11] P25,000.00 as temperate damages, and P840,000.00 as indemnity for the victim's loss of earning capacity.

The Court bases the indemnity for loss of earning capacity on Jill's income at the time of death and his probable life expectancy. His wife, Evelyn, testified that Jill's annual gross income was P48,000.00. Deducting from this his necessary and incidental expenses, estimated at 50%, the net balance of his income would be P24,000.00 per annum. Using the following formula: $\frac{2}{3} \times 80 - 27$ (age of the victim at time of death), Jill's life expectancy would be 35 more years. Multiplying the net balance of his annual income by his life expectancy, Jill's loss of his earning is P840,000.00.

WHEREFORE, the Court PARTLY REVERSES and MODIFIES the decision of the Court of Appeals in CA-G.R. CR-HC 01343 dated February 21, 2008 and finds Reynaldo Basada GUILTY beyond reasonable doubt of the crime of homicide, SENTENCES him to suffer the penalty of reclusion temporal, and ORDERS him to indemnify the heirs of Jill Alea in the amounts of P50,000.00 as civil indemnity; P50,000.00 as moral damages; P25,000.00 as temperate damages; and P840,000.00 for loss of earning capacity. The Court also orders him to pay the costs.

On the other hand, the Court ACQUITS Ricardo Basada, Pedro Basada, and Crisanto Basada of the crime of which they are charged for failure of the prosecution to prove their guilt beyond reasonable doubt and ORDERS

their IMMEDIATE RELEASE from prison, unless they are detained for some other lawful or valid cause.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro,[*] Brion, and Mendoza, JJ., concur

[*] Designated as additional members in lieu of Associate Justices Antonio Eduardo B. Nachura and Diosdado M. Peralta per raffle dated June 2, 2010.

[1] Rollo, pp. 2-23, penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta.

[2] Soriano v. People, G.R. No. 148123, June 30, 2008, 556 SCRA 595, 611.

[3] Arceno v. People, 326 Phil. 576, 588 (1996).

[4] People v. Aure, G.R. No. 180451, October 17, 2008, 569 SCRA 836, 852.

[5] People v. Magaro, 353 Phil. 862, 867 (1998).

[6] People v. Parel, 330 Phil. 453, 471 (1996).

[7] People v. Bermas, 369 Phil. 191, 234 (1999).

[8] Id.

[9] Revised Penal Code, Article 249.

[10] People v. Satonero, G.R. No. 186233, October 2, 2009.

[11] Id.

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