

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUPERTO DONES A.K.A. PERTO, ACCUSED-APPELLANT.*G.R. No. 188329. June 20, 2012*

Ponente: SERENO, J.

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Before this Court is an appeal from the Decision[1] of the Court of Appeals (CA) dated 28 April 2009, which affirmed the judgment[2] of the Regional Trial Court (RTC) of Gumaca, Quezon. The RTC found accused Ruperto Dones guilty of murder, for which sentenced him to suffer the penalty of reclusion perpetua and to pay P50,000 as civil indemnity and P50,000 as moral damages.

For eight years, spouses Melanie and Tersiro de Gala worked as overseers of a fishpond owned by John Victoria and located in Sitio Bacolod.[3] On 15 January 2002, around 9:30 p.m., they were traversing the rice paddies of Sitio Bacolod, Barangay Manlampong in San Narciso, Quezon.[4] They were returning to the fishpond, where they also resided, after a day of selling shrimps. Melanie walked one meter ahead of her husband in the waist-high grass, holding a flashlight to light the way. She was waiting for Tersiro to cross the prinsa or gate bordering the fishpond, when he was shot by another man standing five meters in front of them. She was searching for the direction where the shots came from when she trained the flashlight directly at the face of a man she recognized to be Ruperto Dones. Even after Tersiro fell down, Dones allegedly kept shooting at him with a gun about eight inches long.[5] Frightened, Melanie moved backward, turned off the flashlight, and called for help. Dones finally stopped shooting and ran away. Rudy, a tuba gatherer, responded to her call and went to the Centro, where he enlisted the aid of the townsfolk. When he came back with several companions, Tersiro was already dead.[6]

The postmortem findings indicated multiple gunshot wounds as the cause of death. A total of eight wounds were found on the victim's body.[7] On cross-examination, Melanie testified that she recognized the accused Dones, because he had been employed in the same fishpond for two years.[8] Before he worked there as a guard, he was also employed as a laborer constructing dikes under the supervision of Tersiro. A month before the incident, Melanie learned from their neighbors and from the accused himself that Dones harboured a grudge against her husband for allegedly discrediting him in front of their employer.[9]

For his part, Dones claims that he was at Sitio Bacolod at the time of the incident, pumping water into the fishpond owned by Felicito Dinglasan. Dones was accompanied by Hagibis Agason, the latter's wife and children, Boy Sevilla, Pito Sevilla, and Arnold Collato; none of them, however was able to testify at the trial. Dones denied assertion of Melanie that she saw him shoot her husband that night. He explained that her accusation was triggered by his failure to attend the funeral wake of her husband.[10]

The Ruling of the RTC

The trial court gave full credence to Melanie's eyewitness account, describing it as "enlightening...frank, categorical and straightforward." [11] It ruled that the intent to kill was manifest in the manner in which Dones shot Tersiro repeatedly, even when the latter had fallen to the ground, thus ensuring that the victim would not

leave the place alive. The RTC also found that treachery was present based on the following: the suddenness of the attack, the remoteness of the place, and the fact that the shooting occurred at nighttime. These were factors that contributed to the helplessness of Melanie and Tersiro and ensured the execution of the crime.[12] The trial court found that the defense of alibi proffered by the accused was weak and unsubstantiated. Furthermore, the place where he claimed to be pumping water was a mere six meters away from the spot where the victim was shot.[13] Thus, the accused was not able to prove that it was physically impossible for him to be present at the scene of the crime. His blanket denials were also insufficient to create reasonable doubt or make a dent in the solid case forwarded by the prosecution.[14]

The ruling of the CA

On appeal, accused-appellant questioned the trial court's reliance on the testimony given by Melanie, as well as its appreciation of the qualifying circumstance of treachery. He argued that her act of focusing her flashlight on the face of the assassin was inconsistent with her claim that she turned it off right away out of fear. Her claim of seeing the firearm held by the assailant was purportedly false, given that the incident transpired at night, and no illumination was available save for the beam from a single flashlight, which was quickly turned off. The trial court purportedly erred in appreciating alevosia and qualifying the crime as murder, because the prosecution failed to establish the particular mode of attack used by appellant or the fact that he deliberately adopted this mode to fend off any retaliation from the victim.[15]

The CA affirmed the findings of the RTC in all respects, ruling that Melanie consistently narrated what transpired that night: that she focused the flashlight's beam on the face of the accused and turned it off only after he had repeatedly shot her husband.[16] The CA found that her testimony coincided with the postmortem examination of Dr. Reynaldo Florido. It also affirmed the RTC's finding of treachery in the suddenness of the attack upon the couple, who were caught off-guard by the accused.

The accused has now elevated his case to this Court. In compliance with its Resolution dated 10 August 2009, he manifested[17] on 20 October 2009 that he was adopting, as supplemental brief,[18] the Appellant's Brief that he had submitted to the CA. He assigns the following errors, which allegedly warrant a reversal of the RTC's findings:

- The trial court erred in finding accused-appellant guilty beyond reasonable doubt of the offense charged by relying on the inconsistent and unnatural testimony of the alleged eyewitness.
- The court a quo gravely erred in finding accused-appellant guilty of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt.
- The trial court gravely erred in appreciating the qualifying circumstance of treachery.

The Court's Ruling

After a careful scrutiny of the records and pleadings, we find no cogent reason to overturn the findings of the RTC or the CA. Anent the reliance of the RTC on the eyewitness testimony of Melanie, this particular finding is best left to its competence. The assessment of the credibility of witnesses and their testimonies is best undertaken by the trial court due to its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude under grilling examination.[19] Unless trial courts are found to have plainly overlooked certain facts of substance and value, their conclusions on the credibility of witnesses should be respected.[20]

In any case, the RTC correctly evaluated Melanie's testimony to be candid and straightforward. Her account of the events on the night of 15 January 2002 was sufficiently detailed and unwavering, even under probing

questions from the defense. In fact, the answers she provided on cross-examination only served to highlight the positive identification of the accused as the killer:

Q:

And you and your husband has a flashlight with you, is that correct?

A:

Yes, sir, I was the one carrying the flashlight.

Q:

How many batteries is that flashlight powered?

A:

Chargeable flashlight, sir, as long as this (Witness indicating a length of about one (1) foot).

Q:

It has two (2) bulbs?

A:

Only one (1), sir.

Q:

So the light of that flashlight was spread wide?

A:

The light of the flashlight is round (buo), sir.

Q:

When you focused your light, to what direction did you focus it in relation to where you were standing and your husband was shot?

A:

My husband was shot and then I focused my flashlight, I saw that he was there, sir.

Q:

Now, you said you focused your light when your husband was shot and you saw Ruperto Dones shot your husband. To the direction where you were going, where was Ruperto Dones shooting your husband?

A:

He was on my front, I was facing him and I was waiting for my husband to traverse the prinsa, sir.

Q:

You mentioned 'prinsa.' What is this 'prinsa'?

A:

That is the place where we get the shrimps, sir, the water-gate.

Q:

It is now clear that your husband was at your back, Ruperto Dones in your front, you are at the middle, is that correct?

A:

No, sir, my husband was in front of me?

Q:

When you were walking, your husband was walking ahead of you, is that correct?

A:

He was at my back when we crossed the prinsa, I was the one who crossed the prinsa and then I was waiting for my husband, I was facing him and then he was shot, sir.

Q:

Mrs. Witness, what was your interval with your husband when you crossed the water-gate or prinsa?

A:

From here, sir, up to there, about half meter.

Q:

So where was now Dones who fired at your husband?

A:

He was near the grassy place, sir.

Q:

How far from the place where you were with your husband when he was shot?

A:

From here up to the second bench, sir.

INTERPRETER: Witness indicated a distance which, upon stipulation between counsels, is estimated to be five (5) meters.

ATTY. HASIM:

Q:

So in relation to the place where you were facing, in what direction was this Dones about five (5) meters?

A:

He was in front of my husband, in front of me, sir, I saw him.[21] (Emphasis supplied.)

Thus, contrary to the contention of the accused, Melanie was able to categorically identify him as the assailant who shot and killed her husband. There was no inconsistency in her narration of the details, particularly of the fact that she first trained the flashlight to light the way for Tersiro as he crossed the prinsa, but turned it off after she had moved backwards:

ATTY. HASIM:

Q:

Now while your husband was being shot by Ruperto Dones, what were you doing?

A:

When I saw he was our companion in the fishpond, I asked for help and I moved backward and I put off my flashlight, sir.

Q:

When you said you moved backward, to what direction did you move?

A:

At my back, sir, I walked backward, there is a dike.

Q:

About how many meters did you move backward from your husband?

A:

From here up to there, sir.

INTERPRETER: Witness indicated a distance which, upon stipulation between counsels, is about four (4) meters.[22]

Accused appellant insists that the narration of Melanie and her conduct then were contrary to human experience and unbelievable. However, nothing in the records or even in the Appellant's Brief would warrant that conclusion. What is unbelievable is the contention of the accused that Melanie fabricated her account only because he was not able to attend the funeral wake for Tersiro. The RTC rightly dismissed this allegation as a flimsy afterthought. Moreover, the argument that Melanie might have committed a mistake in identifying the perpetrator is bereft of support. We find that the prosecution was able to prove beyond reasonable doubt that, on the evening of 15 January 2002, Ruperto Dones shot and killed Tersiro de Gala.

As to the contention that the qualifying circumstance of treachery was not proven in the present case, we concur with the CA and the Solicitor General that the prosecution sufficiently established the elements of the crime charged. In the Appellant's Brief, the defense argued that treachery was not established, as there was no indication of the mode employed or that the accused consciously adopted such mode of attack.

There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof that tend directly and especially to ensure its execution, without risk to the offender arising from any defense that the offended party might make.[23] The elements of treachery are as follows: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the means of execution was deliberate or consciously adopted.[24] This is the essence of treachery -- a deliberate and sudden attack; affording the hapless, unarmed, and unsuspecting victim no chance to resist or to escape. In treachery, what is decisive is that the attack was executed in such a manner as to make it impossible for the victim to retaliate.[25]

These elements were correctly found to be present in the intermediate appellate review. Although the accused was standing directly in front of the De Gala spouses, the victim Tersiro was preoccupied with crossing the prinsa when the accused started shooting. The CA found that the accused had waited for that exact moment before

repeatedly pulling the trigger. The suddenness and unexpectedness of the attack, considering that it was nighttime and the place was deserted, rendered both Melanie and Tersiro defenseless. There was no means of escape, as they were trapped in waist-high grass between the prinsa and the accused.[26] It was apparent that accused-appellant sought cover in the darkness, waiting for the couple to return home. Even after Tersiro fell, the accused continued to pepper him with bullets, thus ensuring that the victim would not survive or retaliate.

In view of the foregoing, we deny the appeal and affirm accused- appellant's conviction. We find it necessary to modify the civil liability of accused-appellant to include exemplary damages. Since the killing of the victim was attended by treachery his heirs are entitled to exemplary damages in the amount of ₱30,000, in accordance with jurisprudence.[27]

WHEREFORE, the 28 April 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02961 is hereby AFFIRMED with MODIFICATION. Appellant Ruperto "Perto" Dones is found guilty beyond reasonable doubt of the crime of murder, for which he is sentenced to suffer the penalty of reclusion perpetua. He is further ordered to pay the heirs of the victim, Tersiro de Gala, P50,000 as civil indemnity ex delicto, P50,000 as moral damages, and P30,000 as exemplary damages.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] Penned by Associate Justice Jose Catral Mendoza, concurred in by Presiding Justice Conrado M. Vasquez, Jr. and Associate Justice Ramon M. Bato, Jr., in CA-G.R. CR-HC No. 02961; SC rollo, pp. 2-18.

[2] Penned by Executive Judge/Presiding Judge Aurora V. Maqueda-Roman on 13 June 2007 in Criminal Case No. 7329-G; CA rollo, pp. 17-33.

[3] Id. at 2.

[4] Id.

[5] Id. at 25-26.

[6] SC rollo, p. 3.

[7] CA rollo, p. 20.

[8] Id. at 18.

[9] Id. at 19.

[10] Id. at 32, citing the TSN, 10 February 2005, p. 10.

[11] Id. at 22.

[12] Id. at 27.

[13] Id. at 32.

[14] Id. at 33.

[15] SC rollo, p. 8.

[16] Id. at 10.

- [17] Manifestation In Lieu of Supplemental Brief, SC rollo, pp. 36-38.
- [18] Brief for the Accused-Appellant, CA rollo, pp. 51-66.
- [19] *People v. Lopez*, G.R. No. 172369, 7 March 2007, 517 SCRA 749, 760.
- [20] *People v. Padre-e*, 319 Phil. 545, 554 (1995).
- [21] TSN, 4 December 2002, pp. 13-17; as cited in SC rollo, p. 11-12.
- [22] *Id.* at 13.
- [23] Revised Penal Code, Art. 14, par. 16.
- [24] *People v. Lacaden*, G.R. No. 187682, 25 November 2009, 605 SCRA 784, 801-802.
- [25] *People v. Tolentino*, G.R. 176385, 26 February 2008, 546 SCRA 671, 697.
- [26] CA Decision, SC rollo, p. 15.
- [27] *Supra* note 24, at 805; *People v. Gidoc*, G.R. No. 185162, 24 April 2009, 586 SCRA 825, 837; *People of the Philippines v. Arnold Pelis*, 643 Phil. 598, 602 (2011).

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