PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARMAN APACIBLE Y RODRIGUEZ, APPELLANT.

G.R. No. 189091. August 25, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

From the Court of Appeals Decision affirming with modification, the trial court's decision convicting him of Murder, Arman Apacible y Rodriguez (appellant) comes to the Court on appeal.

The accusatory portion of the Information filed against appellant before the Regional Trial Court (RTC) of Balayan, Batangas reads:

> That on or about the 23[rd] day of May, 1999 at about 8:30 o'clock in the evening, at Barangay Luna, Municipality of Tuy, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed instrument, with intent to kill, with treachery and evident premeditation and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one Arnold Vizconde y Famoso thereby inflicting upon the latter multiple stab wounds in his body, which directly caused his death.[1] (emphasis supplied)

From the account of prosecution witness Mylene Vizconde (Mylene), widow of Arnold Vizconde (the victim), the following transpired on the day her husband died:

On May 23, 1999, starting at about 2:00 p.m., her husband, her uncle and appellant, who is her first cousin, had a drinking spree at a neighbor's house.[2] The spree lasted up to 8:30 p.m. following which her husband returned home and slept in their room.[3] She thereupon placed their eight-month old child beside him and went to the kitchen to prepare milk for the child. Shortly thereafter, she, from a distance of about three to four meters, heard appellant utter "Putang ina mo, papatayin kita!" and then saw appellant, through the open door to the room, stab her husband several times.[4]

She thus shouted for help and called appellant's mother with whom he lives about "five (5) steps away."[5] While appellant's mother who heeded her call repaired to the house, the latter and appellant left as they saw the victim drenched in blood.[6]

She then brought her child to a neighbor and sought help from the Tuy Police Station who responded and conducted an investigation with dispatch.[7]

At the time of his death, the victim was 26 years old and was working at the National Power Corporation, earning P10,000 per month.[8]

Mylene surmised that appellant killed her husband in view of his (her husband's) refusal to amicably settle the malicious mischief case he had filed against appellant's brother for breaking the glass windshield of his car.[9]

Appellant, interposing alibi, claimed that after the victim whom he treated as a brother left, he too left with a

friend for Cavite.[10] He surmised that he is being charged because the alleged breaking by his brother of the windshield of the victim's car was the subject of their conversation during the drinking spree.[11]

By Decision[12] of January 31, 2008, Branch 11 of the Balayan RTC which convicted him disposed:

> WHEREFORE, the Court finds the accused Arman Apacible GUILTY beyond reasonable doubt of the crime of Murder, defined and penalized under Art. 248 of the Revised Penal Code, as amended by RA 7659, and hereby sentences him to suffer imprisonment of Reclusion Perpetua and to indemnify the heirs of victim Arnold Vizconde y Famoso the sum of FIFTY THOUSAND (P50,000.00) PESOS as death indemnity and FIFTY THOUSAND (P50,000.00) PESOS as moral damages.
>
> Considering that accused Arman Apacible y Rodriguez is a detention prisoner he shall be credited with the period of his detention during his preventive imprisonment. (emphasis in the original; underscoring supplied)

In his Brief filed before the Court of Appeals, appellant questioned, in the main, Mylene's motive in identifying him as the assailant of her husband, the latter having allegedly refused appellant's request to amicably settle the malicious mischief case filed against appellant's brother. And appellant challenged Mylene's alleged seeing him stab her husband, there being "no mention" if the locus criminis was well-lighted.

The appellate court, by Decision of June 23, 2009, affirmed with modification the trial court's decision, disposing as follows:

> WHEREFORE, premises considered, the Decision of Branch 10, Regional Trial Court of Balayan, Batangas dated January 31, 2008 in Criminal Case No. 4410 finding accused-appellant Arman Apacible y Rodriguez GUILTY beyond reasonable doubt of the crime of murder is AFFIRMED with the MODIFICATIONS that the award of civil indemnity shall be increased from P50,000.00 to P75,000.00 and that he is further ordered to indemnify the heirs of the victim P25,000.00 as exemplary damages.[13] (emphasis found in the original)

The appellate court increased the award of civil indemnity from P50,000 to P75,000 in light of recent jurisprudence,[14] and awarded exemplary damages in the amount of P25,000 to the heirs of the victim in view of the attending qualifying circumstance of treachery.

Hence, the present appeal.

This Court finds no compelling reason to deviate from the appellate court's affirmance of appellant's conviction. The narration of the victim's wife Mylene is too graphic to be denied credence:

> Q
>
> While you were preparing milk for your child, what happened?
>
> A
>
> I saw Arman already stabbing my husband, sir.
>
> Q
>
> Where was Arman when you said you saw him stabbing your husband?
>
> A
>
> I was at the room, sir.
>
> Q
>
> What was your distance at that time when you saw your husband being stabbed by Arman?

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A

Very near, sir.

Q

When you said very near, how near is that?

A

(Witness pointing from the witness stand up to a distance of around 3 to 4 meters.)

COURT:

(To the witness on clarificatory questions.)

Q

Before you can enter your room, is there a door?

A

The door was open, Your Honor.

Q

What kind of door was that?

A

It was a swing type door, Your Honor.

Q

There is no spring on the door?

A

There is none, Your Honor.

Q

How were you able to see that your husband was stabbed by the accused when you said you were in the kitchen?

A

I saw him, Your Honor.

Q

Through the door opening?

A

Yes, Your Honor.[15] (emphasis and underscoring supplied)

Mylene's credibility becomes more pronounced when note is taken that appellant is her first cousin who frequently visited their house.

Appellant's claim that he was misidentified by Mylene, there being no showing that the room where the stabbing

occurred was well-lit, fails. Recall that Mylene, immediately before witnessing the stabbing by appellant, heard appellant curse her husband. She in fact shouted and sought the help of appellant's mother. The proximity of appellant to where Mylene was at the time of the killing, in addition to Mylene's familiarity with her first cousin-appellant who used to frequent their house, dissipates any nagging doubts that she erred in identifying him as the malefactor.

The Court thus affirms the appellate court's Decision, with modification, however. The Court reduces the amount of civil indemnity awarded by the appellate court from P75,000 to P50,000, as determined by the trial court. People v. Anod[16] explains why the award of P75,000 as civil indemnity lies only in cases where the proper imposable penalty is death, viz:

> It is worth stressing that, at the outset, the appellant, together with Lumbayan, was sentenced by the RTC to suffer the penalty of reclusion perpetua. Thus, the CA's reliance on our ruling in People v. dela Cruz was misplaced. In dela Cruz, this Court cited our ruling in People v. Tubongbanua, wherein we held that the civil indemnity imposed should be P75,000.00. However, the instant case does not share the same factual milieu as dela Cruz and Tubongbanua. In the said cases, at the outset, the accused were sentenced to suffer the penalty of death. However, in view of the enactment of Republic Act No. 9346 or the Act Prohibiting the Imposition of the Death Penalty on June 24, 2006, the penalty meted to the accused was reduced to reclusion perpetua. This jurisprudential trend was followed in the recent case of People of the Philippines v. Generoso Rolida y Moreno, etc., where this Court also increased the civil indemnity from P50,000.00 to P75,000.00. Based on the foregoing disquisitions and the current applicable jurisprudence, we hereby reduce the civil indemnity awarded herein to P50,000.00. x x x (italics in the original; emphasis and underscoring supplied; citations omitted)

As reflected earlier, appellant was sentenced by the trial court to reclusion perpetua.

WHEREFORE, the assailed Decision of the Court of Appeals is AFFIRMED with MODIFICATION in that, in accordance with the discussion in the immediately preceding paragraph, civil indemnity is reduced to P50,000.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

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[1] Records, p. 1.

[2] Transcript of Stenographic Notes (TSN), May 18, 2005, p. 5.

[3] Id. at 6.

[4] Id. at 8-10.

[5] Id. at 13.

[6] Id. at 12-14.

[7] Id. at 15.

[8] Id. at 17.

[9] Id. at 11-12.

[10] Id. at 11.

[11] Id. at 13.

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[12] CA rollo, p. 15.

[13] Penned by Associate Justice Mariano C. Del Castillo, with the concurrence of Associate Justices Monina Arevalo-Zenarosa and Priscilla J. Balatazar-Padilla, rollo 2-13.

[14] People v. de Guzman, G.R. No. 173477, February 4, 2009 citing People v. Tubongbanua, G.R. No. 171271, August 31, 2006.

[15] TSN, May 18, 2005, pp. 8-9.

[16] G.R. No. 186420, August 25, 2009.

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