

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNOLD PELIS, APPELLANT.

G.R. No. 189328. February 21, 2011

Ponente: BRION, J.

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BRION, J.:

We decide, through this Resolution, the appeal filed by appellant Arnold Pelis from the decision of the Court of Appeals (CA) in CA G.R. CR-H.C. No. 02932.

On April 27, 2004, appellant Arnold Pelis, together with Mario Lito Entura, were accused of murder[1] in the Regional Trial Court (RTC), Branch 81, Quezon City,[2] under the following Information:

That on or about [the] 19[th] day of February [2004], in Quezon City, Philippines, the said accused, conspiring together, and mutually helping each other, with intent to kill qualified by evident premeditation and treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of ROLANDO JUAN Y SAN DIEGO by then and there stabbing him with the use of [a] bladed weapon, thereby inflicting upon him serious and grave wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of ROLANDO JUAN Y SAN DIEGO.[3]

The appellant, upon arraignment, pleaded not guilty. His co-accused, Entura, remained at large. An eyewitness, Mario Makahilig, testified on the details of the crime.

At about 10:00 p.m. of February 19, 2004, the victim, Rolando Juan, was sitting with some companions inside the Top 40 Videoke Bar located in Zabarte Road, Novaliches, Quezon City, when the appellant and Entura came and, acting together and using knives, stabbed the victim. The appellant stabbed the victim once in the abdomen, while Entura stabbed the victim's upper left chest. The appellant and Entura then fled from the crime scene.[4] The victim's companions rushed him to a nearby hospital where he died the next day.[5]

The postmortem examination on the victim's body confirmed that the victim sustained injuries at the thorax and abdomen, and that the cause of his death was the stab wound at the thorax.[6] The duly presented receipts show that the victim's family spent P30,000.00 for the victim's funeral and burial expenses.[7]

The appellant, interposing the defense of alibi, claimed that he was asleep at his house on Donji St., Zabarte, Quezon City at the time of the killing.[8]

In its March 9, 2007 Decision,[9] the RTC found the appellant guilty beyond reasonable doubt of murder. It gave credence to the positive testimony of prosecution eyewitness Mario Makahilig who, the trial court found, had no ill-motive to falsely testify against the appellant. The RTC disbelieved the appellant's alibi, noting that the appellant's house was within a walking distance from the crime scene. It appreciated conspiracy based on the accused's synchronized and coordinated acts of stabbing the victim. The RTC appreciated the qualifying circumstance of treachery because the appellant stabbed the victim without any previous warning while the victim

was sitting and unarmed. The trial court disregarded the allegations of evident premeditation and abuse of superior strength; the presented evidence did not show any planning and preparation made by the appellant to commit the felony, nor proof that the accused purposely used excessive force to ensure the killing of the victim. Based on these premises, the court imposed the penalty of reclusion perpetua, and ordered the accused to pay the heirs of the victim P50,000.00 as civil indemnity, P30,000.00 as actual damages, and P50,000.00 as moral damages.

On intermediate appellate review, the CA fully affirmed the RTC decision.[10] The case is now before us for our final review.

The appellant's conviction for murder stands.

We find no reason to disturb the RTC's findings, as affirmed by the CA. The eyewitness account of Mario Makahilig is more plausible than the appellant's alibi. Positive identification, where categorical, consistent and not attended by any showing of ill motive on the part of the eyewitnesses, prevails over alibi and denial,[11] particularly where the appellant had not shown the physical impossibility of his access to the victim at the time and place of the crime.[12] The RTC correctly appreciated conspiracy since the simultaneous acts of the accused during the stabbing disclosed a unity of objective.[13] Treachery qualified the killing to murder. Although frontal, the attack was unexpected, and the unarmed victim was in no position to repel the attack.[14] Since neither aggravating nor mitigating circumstances attended the commission of the felony, the trial court properly imposed the penalty of reclusion perpetua.

We find it necessary to modify the civil liability of the 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 P30,000.00.[15]

WHEREFORE, the July 24, 2009 Decision of the Court of Appeals in CA G.R. CR-H.C. No. 02932 is hereby AFFIRMED with MODIFICATION. Appellant Arnold Pelis is found guilty of murder, as defined and penalized under Article 248 of the Revised Penal Code, and is sentenced to suffer the penalty of reclusion perpetua. He is further ordered to pay the heirs of Rolando Juan y San Diego P50,000.00 as civil indemnity ex delicto, P30,000.00 as actual damages, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.

Carpio Morales, (Chairperson), J., on wellness leave.

Bersamin, [***]Abad, Villarama, Jr., and Sereno, JJ., concur.

[**]Brion, Acting Chairperson

[**] Designated Acting Chairperson of the Third Division effective February 16, 2011, per Special Order No. 295 dated January 24, 2011.

[***] Designated additional Member of the Third Division effective February 16, 2011, per Special Order No. 296 dated January 24, 2011.

[1] See REVISED PENAL CODE, Art. 248.

[2] Docketed as Criminal Case No. Q-04-127136.

[3] CA rollo, p. 11.

[4] TSN, October 12, 2004, pp. 5-7.

[5] Ibid.

[6] TSN, November 23, 2004, pp. 2-4; Exhibit "E," Records, p. 74.

[7] Exhibit "I," Records, p. 79.

[8] TSN, August 2, 2005, pp. 2-3.

[9] CA rollo, pp. 22-26.

[10] Dated July 24, 2009. Decision penned by Associate Justice Pampio A. Abarintos, and concurred in by Associate Justice Amelita G. Tolentino and Associate Justice Mario V. Lopez of the Twelfth Division of the Court of Appeals. Rollo, pp. 2-11.

[11] *People v. Garchitorena*, G.R. No. 175605, August 28, 2009, 597 SCRA 420, 444; and *People v. Villanueva, Jr.*, G.R. No. 187152, July 22, 2009, 593 SCRA 523, 545.

[12] *People v. Abdulah*, G.R. No. 182518, January 20, 2009, 576 SCRA 797, 807; and *People v. Dela Peña, Jr.*, G.R. No. 183567, January 19, 2009, 576 SCRA 371, 379.

[13] *David, Jr. v. People*, G.R. No. 136037, August 13, 2008, 562 SCRA 22, 35; and *People v. Recepcion*, G.R. Nos. 141943-45, November 13, 2002, 391 SCRA 558, 591.

[14] *Gandol v. People*, G.R. Nos. 178233 & 180510, December 4, 2008, 573 SCRA 108, 124; and *People v. Tolentino*, G.R. No. 176385, February 26, 2008, 546 SCRA 671, 697.

[15] *People v. Lacaden*, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 805; and *People v. Gidoc*, G.R. No. 185162, April 24, 2009, 586 SCRA 825, 837.

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