

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALVIN DEL ROSARIO, APPELLANT.

G.R. No. 189580. February 09, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

On appeal is the July 23, 2009 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 03020, which affirmed the decision[2] rendered by Branch 65 of the Regional Trial Court (RTC) of Bulan, Sorsogon, finding appellant Alvin del Rosario guilty beyond reasonable doubt of murder.

In an Information[3] dated January 11, 2005, appellant was charged with murder, committed as follows:

That on December 20, 2004 at about 9:00 o'clock in the evening [in] Brgy. G. del Pilar, municipality of Bulan, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill and taking advantage of night time, with treachery and evident premeditation, did then and there, willfully, unlawfully and feloniously, attack, assault and stab one EDWIN GELUA thereby inflicting upon him mortal wounds on the stomach which caused his death, to the damage and prejudice of his legal heirs.

CONTRARY TO LAW.

When arraigned, appellant pleaded not guilty. Trial on the merits ensued.

The prosecution presented four (4) witnesses, namely: Angelita Gelua (Angelita), Edwin Gelua's (Edwin's) wife; Dr. Andrew A. de Castro (Dr. De Castro), Edwin's attending physician; Salvador Gelua (Salvador); and Ruel Garlan (Ruel).

Angelita testified that, on December 20, 2004, at about 9:00 p.m., Edwin had a drinking spree with Salvador and Samson Gepiga at their home in Barangay G. del Pilar, Bulan, Sorsogon. At some point during the said spree, Edwin went out of the house to answer the call of nature. Angelita was standing by the main door while Edwin urinated when appellant suddenly appeared and stabbed Edwin with a machete. She immediately brought Edwin to Bulan Municipal Hospital; and then transferred him to Sorsogon Provincial Hospital, where Edwin died.[4]

Dr. De Castro found the cause of death as "cardio-respiratory arrest, stab wound, and hypovolemic shock." [5] He explained that Edwin sustained a stab wound "on the right upper quadrant with laceration, the part of the intestine coming out," and damaged the following abdominal organs, i.e., "perforated lesser curvature of [the] stomach was thru and thru; perforated second part of [the] duodenum, thru and thru; lacerated middle colic artery behind the stomach with extensive bleeding; lacerated mesenteric vessels; and perforated ileum, thru and thru." [6] Dr. De Castro opined that, based on the location of the stab wound, the victim was in front of the assailant - face to face with the latter when attacked. However, it was also possible that the assailant was at the back of the victim by "hitting the anterior part from behind holding the patient." [7]

Salvador corroborated the testimony of Angelita. He testified that, on December 20, 2004, at around 9:00 p.m., he

was having a drinking spree with Edwin at the latter's house. Edwin went out of the house to urinate. Moments later, he heard Edwin shouting, crying for help. He rushed outside and saw Edwin holding his stomach, apparently stabbed. He saw appellant holding a knife and who ran away upon seeing him. They hurriedly brought Edwin to the hospital.[8]

Ruel, on the other hand, stated that Angelita informed him of the stabbing incident. He went to the house of appellant after the incident. Initially, appellant denied that he stabbed Edwin; later, however, appellant admitted that he was Edwin's assailant, and surrendered to him the bladed

weapon which was allegedly used in the stabbing. He then brought appellant to the Bulan Police Station.[9]

For his part, appellant invoked his constitutional right to remain silent. He refused to present any witness in support of his denial, despite numerous opportunities given him. He decided to simply forego with the presentation of his evidence.

On August 27, 2007, the RTC rendered a guilty verdict, viz.:

WHEREFORE, premises considered, accused Alvin del Rosario having been found guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code as amended by RA 7659, is hereby sentenced to suffer the single and indivisible penalty of Reclusion Perpetua (regardless of [the] presence of any mitigating or aggravating circumstances, Art. 63, R.P.C.) and to indemnify the heirs of deceased Edwin Gelua in the amount of Php17,258.00 as actual and compensatory damages; Php50,000.00 as civil indemnity for his death and another Php50,000.00 as moral damages; and to pay the costs.

The period of preventive imprisonment already served by the accused shall be credited in the service of his sentence pursuant to Article 29 of the same Code.

SO ORDERED.[10]

Appellant filed an appeal before the CA, assigning in his brief the following errors allegedly committed by the trial court:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE HIGHLY IMPROBABLE AND UNRELIABLE ACCOUNT OF PROSECUTION EYEWITNESSES ANGELITA AND SALVADOR GELUA.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF MURDER DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT GRAVELY ERRED IN ADMITTING IN EVIDENCE THE ACCUSED-APPELLANT'S ALLEGED ADMISSION AND TURNING OVER OF THE MURDER WEAPON WITHOUT THE ASSISTANCE OF COUNSEL.[11]

The Office of the Solicitor General (OSG) also filed its brief,[12] asserting that appellant's guilt was proved beyond reasonable doubt.

On July 23, 2009, the CA rendered the now challenged Decision, affirming appellant's conviction:

WHEREFORE, in view of the foregoing, the appealed decision of the RTC of Bulan, Sorsogon, Branch 65

dated August 27, 2007 is hereby AFFIRMED IN TOTO.

SO ORDERED.[13]

Appellant is now before this Court, submitting for resolution the same matters argued before the CA. Through his Manifestation and Motion in Lieu of Supplemental Brief,[14] appellant stated that he would not file a Supplemental Brief and, in lieu thereof, he would adopt the Appellant's Brief he had filed before the appellate court. The OSG likewise manifested that it was no longer filing a Supplemental Brief.[15]

Appellant insists that the prosecution failed to prove his guilt beyond reasonable doubt. He asserts that the pieces of evidence of the prosecution, specifically, the testimonies of Angelita and Salvador, do not bear the earmarks of truth, candor, and spontaneity. He argues that the trial court should not have taken at face value the testimonies of these witnesses because they may be impelled by improper motives, being the wife and the cousin of the victim. Appellant, therefore, faults the RTC and the CA for giving credence to the prosecution's evidence.

Indubitably, the issues raised by appellant hinge on the credibility of the prosecution witnesses.

The age-old rule is that the task of assigning values to the testimonies of witnesses and weighing their credibility is best left to the trial court which forms first-hand impressions as witnesses testify before it. It is thus no surprise that findings and conclusions of trial courts on the credibility of witnesses enjoy, as a rule, a badge of respect, for trial courts have the advantage of observing the demeanor of witnesses as they testify.[16] Further, factual findings of the trial court as regards its assessment of the witnesses' credibility are entitled to great weight and respect by this Court, particularly when the CA affirms the said findings, and will not be disturbed absent any showing that the trial court overlooked certain facts and circumstances which could substantially affect the outcome of the case.[17]

In this case, we find no reason to depart from this rule. Appellant failed to convince us that the RTC and the CA overlooked certain facts and circumstances which, if considered, might affect the result of the case.

The witnesses for the People - Angelita and Salvador - were consistent in the identification of appellant as Edwin's assailant. Appellant was directly identified by these witnesses as the one who stabbed and killed Edwin.

Angelita saw the stabbing of Edwin, and was categorical and frank in her testimony. From her direct and straightforward testimony, there is no doubt as to the identity of the culprit (appellant), who suddenly emerged while Edwin was urinating and stabbed the latter.[18]

The alleged improper motive on the part of Angelita and Salvador remains purely speculative, as no evidence was offered to establish that such a relationship affected their objectivity. In *People v. Daraman*,[19] we had occasion to state that it would be unnatural for relatives of the victim, who seek justice, to impute the crime to an innocent person, and thereby allow the real culprit to escape prosecution. Indubitably, the imputation of ill motive against Angelita and Salvador is not a viable defense.

As against the positive identification by Angelita and Salvador, appellant's bare denial carries no evidentiary weight or probative value, especially so because he opted not to present any evidence to prove his defense. As explained by this Court in *People v. Lovedor*:[20]

It is a well-settled rule that positive identification of the accused, where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over alibi and denial which if not substantiated by clear and convincing evidence are negative and self-serving evidence undeserving of weight in law (*People vs. Enriquez*, 292 SCRA 656 [1998]). In this case, Emelita positively and categorically identified accused-appellant as the person she saw outside the window of their house immediately after she heard the gunshot. She also testified that accused-appellant was toting a handgun at that time. Despite

relentless cross-examination, she never wavered in the material details of her testimony.

Emelita's testimony as to accused-appellant's culpability is damning. It need not be emphasized that Emelita had no improper motive to testify against accused-appellant, it being unnatural for one interested in vindicating the crime to accuse somebody other than the real culprit (*People vs. Salvame*, 270 SCRA 766 [1997]). Emelita's identification of accused-appellant, likewise, draws strength from the rule that family members who have witnessed the killing of their loved one usually strive to remember the faces of the assailants (*People vs. Cawaling*, 293 SCRA 267 [1998]).

Appellant also faults the RTC for admitting in evidence and for giving credence to the testimony of Ruel. He insists that his alleged admission that he was Edwin's assailant cannot be considered as evidence against him without violating his constitutional right to counsel.

The argument is specious.

Records show that, when Ruel testified on the alleged admission, appellant did not raise any objection. It is a rule of evidence that any objection against the admission of any piece of evidence must be made at the proper time, and that if not so made it will be understood to have been waived. The proper time to make a protest or objection is when, from the question addressed to the witness, or from the answer thereto, or from the presentation of the proof, the inadmissibility of evidence is, or may be, inferred.[21] Therefore, the RTC cannot be faulted for admitting the testimony of Ruel.

In any event, appellant's conviction was not based on his alleged admission or confession, but, primarily, on the positive and credible testimonies of Angelita and Salvador. Hence, we agree with the OSG that

the circumstances surrounding appellant's alleged admission of the crime are inconsequential.

Appellant next argues that he should be made liable for homicide only. He claims that treachery did not attend the killing of Edwin.

That treachery or alevosia was present is incontrovertible. The essence of this qualifying circumstance is the sudden and unexpected attack by the assailant on an unsuspecting victim, depriving the latter of any real chance to defend himself. It is employed to ensure the commission of the crime without the concomitant risk to the aggressor.[22]

Concededly, appellant's attack, coming from behind, on the unarmed Edwin, was sudden, unprovoked, unexpected, and deliberate. Edwin was in no position and without any means to defend himself. By all indications, Edwin was left with no opportunity to evade the knife thrusts, to defend himself, or to retaliate. In sum, the finding of treachery stands.

Under Article 248[23] of the Revised Penal Code (RPC), 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, pursuant to Article 63, paragraph 2,[24] of the RPC. The prison term imposed by the trial court and affirmed by the CA for the death of Edwin is, therefore, correct.

As to the damages awarded, 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]

In murder, the grant of civil indemnity, which has been fixed by jurisprudence at P50,000.00, requires no proof other than the fact of death as a result of the crime, and proof of an accused's responsibility therefor. Similarly, moral damages are awarded in view of the violent death of the victim, and these do not require any allegation or

proof of the emotional sufferings of the heirs.[26] We, therefore, sustain the awards of P50,000.00 as civil indemnity and P50,000.00 as moral damages to the heirs of Edwin.

As to actual damages, the official receipts that Angelita presented showed expenses that amounted to P17,258.00. However, we have held that when actual damages proven by receipts amount to less than P25,000.00, the award of temperate damages amounting to P25,000.00 is justified, in lieu of actual damages for a lesser amount. This is based on the sound reasoning that it would be anomalous and unfair to the heirs of the victim who tried but succeeded only in proving actual damages of less than P25,000.00. They would be in a worse situation than another who might have presented no receipts at all, but is entitled to P25,000.00 temperate damages.[27] Thus, considering that expenses in the amount of P17,258.00 were proven by Edwin's heirs, an award of P25,000.00 as temperate damages, in lieu of this lesser amount of actual damages, is proper.

Likewise, we include an award of exemplary damages in favor of the heirs of Edwin. An aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230[28] of the Civil Code. The award of P30,000.00 as exemplary damages is, therefore, proper under current jurisprudence.[29]

WHEREFORE, the appeal is DISMISSED. The assailed Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 03020 is AFFIRMED with MODIFICATIONS. Appellant Alvin del Rosario is found GUILTY beyond reasonable doubt of MURDER, and is hereby sentenced to suffer the penalty of reclusion perpetua. Appellant is also ordered to pay the heirs of Edwin Gelua the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P30,000.00 as exemplary damages.

SO ORDERED.

Carpio, (Chairperson), Peralta, Bersamin,[*] and Abad, JJ., concur.

[*] Additional member in lieu of Associate Justice Jose Catral Mendoza per Raffle dated February 17, 2010.

[1] Penned by Associate Justice Sesonando E. Villon, with Associate Justices Jose Catral Mendoza (now a member of this Court) and Antonio L. Villamor, concurring; rollo, pp. 2-11.

[2] Records, pp. 145-155.

[3] Id. at 1.

[4] TSN, June 21, 2005, pp. 3-5, 7.

[5] Records, p. 8.

[6] Id. at 66; TSN, November 8, 2005, p. 5.

[7] TSN, November 8, 2005, p. 7.

[8] TSN, January 17, 2006, pp. 1-3.

[9] TSN, February 14, 2006, pp. 1-3.

[10] Supra note 2, at 155.

[11] CA rollo, pp. 45, 51.

[12] Id. at 73-83.

[13] Supra note 1, at 10.

[14] Rollo, pp. 26-28.

[15] Id. at 22-25.

[16] People v. Lacaden, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 794-795.

[17] People v. Molina, G.R. No. 184173, March 13, 2009, 581 SCRA 519, 535-536.

[18] TSN, June 21, 2005, pp. 3-5; TSN, September 6, 2005, 4-6.

[19] 355 Phil. 454, 473 (1998).

[20] 402 Phil. 446, 457-458 (2001).

[21] People v. Mariño, 215 Phil. 527, 532 (1984).

[22] People v. Glino, G.R. No. 173793, December 4, 2007, 539 SCRA 432, 456-457.

[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.

x x x x

2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

[25] People v. Molina, supra note 17, at 542.

[26] People v. Hernando, G.R. No. 186493, November 25, 2009, 605 SCRA 741, 754.

[27] People v. Lacaden, supra note 16, at 804-805.

[28] Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[29] See People v. Lacaden, supra note 16, at 805; People v. Del Prado, G.R. No. 187074, October 13, 2009, 603 SCRA 662, 680.

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